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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

REVISED NOTICE

If the 106th Congress, 1st Session, adjourns sine die on or before November 17, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on December 2, 1999, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through December 1. The final issue will be dated December 2, 1999, and will be delivered on Friday, December 3, 1999.

If the 106th Congress does not adjourn until a later date in 1999, the final issue will be printed at a date to be announced.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

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By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman.*

NOTICE

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MICHAEL F. DiMARIO, *Public Printer.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. Richard Foth, Falls Church, VA.

We are pleased to have you with us.

The guest Chaplain, Dr. Richard Foth, offered the following prayer:

We come today, heavenly Father, with thanksgiving for Your many gifts to us. We are unworthy of the blessings that this Nation enjoys, but we are grateful for the privilege of living in a free land.

As the Senate comes to the close of its deliberations for this year, may wisdom and foresight prevail. Between the pressure to wrap up business and the compromises necessary to make that happen, help the men and women of this body determine to take the long view.

In a place where pressing for votes and pleading for causes each day is the stock-in-trade, let there be a baptism of clear seeing this week. Where great clouds of dust have been raised over critical issues, may the wind of Your Spirit bring new insights. Where significant needs may have been lost in the legitimate but lengthy parliamentary debate, help common ground to be found.

Thank You, Lord, for these gifted public servants, and thank You in advance for the fresh oil of Your grace which they need in these closing hours of their work. May our Nation, our people, and the world be better for it.

In that Name above every name we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE CRAPO, a Senator from the State of Idaho, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. Senator CRAPO is recognized.

ORDER FOR MORNING BUSINESS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate be in a period of morning business until 12 noon today with the time equally divided between the majority and minority leaders or their designees.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. CRAPO. The Senate will be in a period of morning business until 12 noon to accommodate a number of Senators who desire to introduce bills and make statements. Following morning business, the Senate may resume consideration of the bankruptcy reform legislation.

For the information of all Senators, progress has been made on the appropriations process, and it is hoped that the Senate will receive the remaining bills from the House today or early in the day on Wednesday. Rollcall votes are not anticipated today. However, they may occur, if necessary, to proceed to legislative or executive matters. Senators can expect votes to occur throughout tomorrow's session, possibly as early as 10 a.m., in an effort to complete the appropriations process.

I thank my colleagues for their attention.

I note the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. CRAPO assumed the chair.)

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FEDERAL DEATH PENALTY ABOLITION ACT OF 1999

Mr. FEINGOLD. Mr. President, I rise today to speak on the Federal Death Penalty Abolition Act of 1999, a bill I introduced last Wednesday. This bill will put an immediate halt to executions and forbid the imposition of the death penalty as a sentence for violations of Federal law.

Since the beginning of this year, this Chamber has echoed with debate on violence in America. We have heard about violence in our schools and neighborhoods. But I am not so sure that we in Government don't contribute to this casual attitude we sometimes see toward killing and death. With each new death penalty statute enacted and each execution carried out, our executive, judicial and legislative branches, at both the State and Federal level, add to a culture of violence and killing. With each person executed, we are teaching our children that the way to settle scores is through violence, even to the point of taking a human life.

Those who favor the death penalty should be pressed to explain why fallible human beings should presume to use the power of the state to extinguish the life of a fellow human being on our collective behalf. Those who oppose the death penalty should demand that explanation adamantly, and at every turn. But only a zealous few try. We should do better. And we should use this moment to do better as we step not only into a new century but also a new millennium, the first such landmark since the depths of the Middle Ages.

Across the globe, with every American who is executed, the entire world watches and asks, How can the Americans, the champions of human rights, compromise their own professed beliefs in this way? A majority of nations have abolished the death penalty in law or in practice. Even Russia and South Africa—nations that for years were symbols of egregious violations of basic human rights and liberties—have seen the error of the use of the death penalty. Next month, Italy and other European nations—nations with which the United States enjoys its closest relationships—are expected to introduce a resolution in the U.N. General Assembly calling for a worldwide moratorium on the death penalty.

So why does the United States remain one of the nations in the distinct minority to use the death penalty? Some argue that the death penalty is a proper punishment because it is a deterrent. But they are sadly, sadly mistaken. The Federal Government and most States in the United States have a death penalty, while our European counterparts do not. Following the logic of death penalty supporters who believe it is a deterrent, you would think that our European allies, who don't use the death penalty, would have a much higher murder rate than we do in the United States. Yet, they don't; and it is not even close. In fact, the murder rate in the United States is six times higher than the murder rate in Britain, seven times higher than in France, five times higher than in Australia, and five times higher than in Sweden.

But we don't even need to look across the Atlantic to see that capital punishment has no deterrent effect on crime. Let's compare Wisconsin and Texas. I am proud of the fact that my great State, Wisconsin, was the first State in this Nation to abolish the death penalty completely, when it did so in 1853. So Wisconsin has been death penalty-free for nearly 150 years. In contrast, Texas is the most prodigious user of the death penalty, having executed 192 people since 1976. So let's look at the murder rate in Wisconsin and in Texas. During the period from 1995 to 1998, Texas has had a murder rate that is nearly double the murder rate in Wisconsin. This data alone calls into question the argument that the death penalty is a deterrent to murder.

I want to be clear. I believe murderers and other violent offenders should be severely punished. I am not seeking to open the prison doors and let murderers come rushing out into our communities. I don't want to free them. But the question is, Should the death penalty be a means of punishment in our society?

The fact that our society relies on killing as punishment is disturbing enough. Even more disturbing, however, is the fact that the States' and the Federal Government's use of the death penalty is often not consistent with the principles of due process, fairness and justice.

It just cannot be disputed that we are sending innocent people to death. Since

the modern death penalty was reinstated in the 1970s, we have released 82 men and women from death row. Why? Because they were innocent. That's one death row inmate found innocent for every seven executed. One in seven! That's a pretty poor performance for American justice.

Another reason we need to abolish the death penalty is the specter of racism in our criminal justice system. Even though our nation has abandoned slavery and segregation, we unfortunately are still living with vestiges of institutional racism. In some cases, racism can be found at every stage of a capital trial—in the selection of jurors, during the presentation of evidence, and sometimes during jury deliberations.

After the 1976 Supreme Court Gregg decision upholding the use of the death penalty, the death penalty was first enacted as a sentence at the federal level with passage of the Drug Kingpin Statute in 1988. Since that time, numerous additional federal crimes have become death penalty-eligible, bringing the total to about 60 statutes today. At the federal level, 21 people have been sentenced to death. Of those 21 on the federal government's death row, 14 are black and only 5 are white. One defendant is Hispanic and another Asian. That means 16 of the 21 people on federal death row are minorities. That's just over 75%. And the numbers are worse on the military's death row. Seven of the eight men, or 87.5%, on military death row are minorities.

One thing is clear: no matter how hard we try, we cannot overcome the inevitable fallibility of being human. That fallibility means that we will not be able to apply the death penalty in a fair and just manner.

At the end of 1999, at the end of a remarkable century and millennium of progress, I cannot help but believe that our progress has been tarnished with our nation's not only continuing, but increasing use of the death penalty. As of today, the United States has executed 585 people since the reinstatement of the death penalty in 1976. In those 23 years, there has been a sharp rise in the number of executions. This year the United States has already set a record for the most executions in our country in one year, 85—the latest execution being that of Ricky Drayton, who was executed by lethal injection just last Friday by the state of South Carolina. And the year isn't even over yet. We are on track to hit close to 100 executions this year. This is astounding and it is embarrassing. We are a nation that prides itself on the fundamental principles of justice, liberty, equality and due process. We are a nation that scrutinizes the human rights records of other nations. We are one of the first nations to speak out against torture and killings by foreign governments. It is time for us to look in the mirror.

Two former Supreme Court justices did just that. In 1994, Justice Harry Blackmun penned the following eloquent dissent:

> From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored—indeed, I have struggled—along with a majority of this Court, to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor. Rather than continue to coddle the Court's delusion that the desired level of fairness has been achieved and the need for regulation eviscerated, I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed. It is virtually self-evident to me now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies.

Similarly, after supporting Supreme Court decisions upholding the death penalty, Justice Lewis Powell in 1991 told his biographer that he now thought capital punishment should be abolished. After sitting on our nation's highest court for over 20 years, Justices Blackmun and Powell came to understand the randomness and unfairness of the death penalty. It is time for our nation to follow the lead of these distinguished jurists.

The death penalty is at odds with our best traditions. It is wrong and it is immoral. The adage ''two wrongs do not make a right,'' could not be more appropriate here. Our nation has long ago done away with other barbaric punishments like whipping and cutting off the ears of suspected criminals. Just as our nation did away with these punishments as contrary to our humanity and ideals, it is time to abolish the death penalty as we enter the next century. The continued viability of our justice system as a truly just system requires that we do so.

I ask my colleagues to join me in taking the first step in abolishing the death penalty in our great nation. Last week, I introduced a bill that abolishes the death penalty at the federal level. I call on all states that have the death penalty to also cease this practice. Let us step away from the culture of violence and restore fairness and integrity to our criminal justice system. As we head into the next millennium, let us leave this archaic practice behind.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask unanimous consent that I be allowed to proceed for 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

FEDERAL LANDS

Mr. THOMAS. Mr. President, I wanted to take some time, since we have a little on our hands this morning, to talk about an issue that continues to be very important for our part of the country, the West. The Presiding Officer comes from a State that is similar to Wyoming. The ownership of land by the Federal Government continues to be an issue, and I think it is more of an issue now than it has been in the past, largely because of some of the actions in recent times by the administration of not only obtaining more land for the Federal Government but also changing some of the management techniques.

This issue, of course, has been one of controversy for a long time within the West. The West has large amounts of land that belongs to the Federal Government. So when you develop the economy of your State, management of the lands has a great deal to do with it. In Wyoming, for example, the three leading economic activities are agriculture, minerals, and tourism, all of which have a great deal to do with public resources, with lands. So it is one of the most important issues with which we deal.

It is interesting to see the percentages of Federal land holdings by State. As shown on this chart, you can see that here in the East generally 1 to 5 percent of the lands are federally owned. When you get to the West, it becomes 35 to 65 percent and as high as 87 percent in some States. So when you talk about how you operate an economy in New Jersey or in North Carolina, it is quite different. When you talk about public lands, it is seen quite differently. The impact in States such as that is relatively minor, where the impact in the West is much greater. Look at Alaska, for example. It makes a great deal of difference.

There are several kinds of lands, of course, and nobody argues with the idea that the purpose of dealing with these public lands is to preserve the resources. All of us want to do that. The second purpose, however, is to allow for its owners, the American people, who use them, to have access to these lands for hunting, fishing, grazing, timber—all of the things that go with multiple use and healthy public lands. Really, that is where we are. No one argues about the concept of these resources, but there is great argument about the details of how you do it.

One of the things that is happening now—and part of it is in the appropriations bills that will be before us tomorrow—relates to the purchase of lands and changing some of the management techniques so the lands become less accessible to the people who live there, less a part of the society of these States.

It is difficult to see on this chart, but this is Wyoming, where over 50 percent of the land belongs to the Federal Government. The green colors are Forest Service lands which were set aside by action of the Congress, action of the

Federal Government, for specific purposes, and we still fulfill those purposes.

Some of the lands were set aside as wilderness. When the wilderness was set aside, others were proclaimed to be for multiple use. Before that changed from multiple use to wilderness, it said specifically in the Wyoming wilderness bill that Congress had to act on it. The red area is Federal lands, Indian reservations. Yellow is the BLM lands. The light green in the corners is national parks which were set aside for a very specific purpose. That purpose continues to be one that is very close to the hearts of the American People. I happen to be chairman of the parks subcommittee and work on those very much. The yellow—the majority of the public lands in our State, as is the case with most other Western States—is Bureau of Land Management lands. Interestingly enough, when the Homestead Act was in place and people were taking homesteads in the West, BLM lands were basically residual lands, not set aside for any particular purpose. They were simply there when the homestead expired, and they are there now to be managed for multiple use.

Let me go back to the notion that this is what has created some of the current controversy—the fact that these lands change when they are used differently. Congress should have a role in this. This is not a monarchy, a government where the President can decide suddenly he is going to acquire more lands without the authority of the Congress. That is kind of where we are now. There are several of these programs that are threatening to the West, including the concept of the Federal Government's intrusion into the whole of society in States in the West.

A number of things are happening. One is the so-called ''land legacy'' that the administration is pushing. It is an idea presented by the President—I think largely by Vice President GORE—that the Federal Government somehow should own a great deal more land than it owns now. Indeed, they have asked for a set-aside from the offshore royalties of a billion dollars a year to acquire more lands. In many cases, their idea is not to have any involvement of the Congress at all but simply to allow them to have this money set aside, without the appropriations process, so that they can purchase additional lands each year. A portion of that is in this year's Interior program, but the big one, of course, is still controversial in the Congress, and it was being dealt with in the House last week or the week before.

So the question is, if there is to be more Federal land, where should it be? The other is, if there is to be more, what is the role of Congress to authorize it and appropriate funds for that as opposed to having a sort of monarchy set-aside to do that.

The other, of course, in my view, has to do with the use of these dollars. We talked about the parks. That is one of the things. We have 378 parks, or units, managed by the Park Service in this country; they are very important to Americans. The infrastructure in many of them needs to be repaired and updated. I argue this money that might be available from these kinds of sources ought to be used for the infrastructure of these parks so that we can continue to support the maintenance and availability of enjoyable visits for the American people. I believe we need to do that.

Another that has come along more recently is a pronouncement by the Forest Service that they would like to set aside 40 million acres in the forest as ''roadless.'' Nobody knows what ''roadless'' means. Is that a synonym for wilderness? We don't know. We had a hearing to try to get that answered by the Secretary of Agriculture and by the Chief of the Forest Service. We were unable to do so. Many people I know believe that would limit the access and would not allow people to hunt, for example, in places where they aren't able to walk because they are elderly, or whatever the reason, and that it will be most difficult to have a healthy forest, where you cannot remove some of the trees that are matured and, rather, let them die or let insects infect them. These are the kinds of things that are of great concern.

There is also what is called an action plan, the conservation of water action plan, which seems to be put forth by EPA and other agencies more to control management of the land than clean water. The clean water action plan says you can do certain things and you cannot do certain things. The key is there needs to be participation by people who live there. There needs to be some participation in cooperating agencies, participation with the State, participation with the agencies there, so we can work together to preserve the resource but also preserve access to those resources and continue to allow them to be part of the recreational economy in our States.

There are other programs that also put at risk the opportunity to use these lands, such as endangered species, about which there is a great controversy in terms of whether there is a scientific basis for the listing of endangered species, whether there are, in fact, ways to delist endangered species when it is proven there has been a recovery in terms of numbers. You can argue forever about that. These all go together to make public lands increasingly more difficult for owner utilization.

I guess one of the reasons that is difficult—and people who work with these problems are basically in the minority—is that the Western States are the ones that have almost all Federal ownership.

With respect to some of the things we might do with regard to the land legacy and the idea of putting money aside for public land purchase, we are prepared to try to put in this bill some sort of protection and say we ought not, in States that have more than 25 percent of their surface owned by the Federal Government, to have any net gain—that there may be things the Federal Government ought to acquire because they have a unique aspect to them, but they can also dispose of some so that there is no net increase. I think that is a reasonable thing to do and one we ought to pursue.

In terms of endangered species, it is very difficult to do anything with a law that has been in place for 20 years. We have 20 years of experience as to how to better manage it. Everyone wants to preserve these species. But they shouldn't have to set aside private and public lands to do that. We believe if we would require more science in terms of nomination and listing—and indeed, when a species is listed, to have a recovery plan at the same time—that would be very important.

One of the other activities is the Natural Environmental Protection Act, NEPA, a program in which there are studies designed to allow people to participate in decisions. Is that a good idea? Studies could absolutely go on forever.

We are faced currently, for example, with the problem in grazing. Obviously, you have a renewable resource, grass. It is reasonable to have grazing. You have that on BLM forest lands. Now we find in this case that, under BLM, you can get through the NEPA process to renew a contract, and they say: Too bad; your contract is dead, unless we can get to it, and we can't.

We are trying to change that. It is an unreasonable thing to do. If there is all of this difficulty with the agency, we ought to change that. Indeed, there is language in this year's appropriations bill to do something about it.

I think we are faced with trying to find the best way to deal in the future with public lands. In States where there is 50 percent or more of land in Federal ownership, there is no reason we can't continue to protect those resources; that we can't continue to utilize those lands in a reasonable way; that we can't involve people locally in the States in making these decisions and making shared judgments. We can do that.

Unfortunately, we find this administration moving in the other direction—moving further way from working with NEPA. We hear about all of these kinds of partnerships. A partnership means there is some equality in working together. That is not the kind of partnership we hear a lot about from the Federal agency. I am hopeful that there can be.

We are very proud of these resources: Yellowstone Park, Devil's Tower—all kinds of great resources in Wyoming. Here is where I grew up, near the Shoshone Forest. I am delighted there is a forest there. It should be, and it should continue to be there. But we need to have a cooperative management process to do that. I am committed. I am

also committed to working toward that in the coming session.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I understand we are in a period of morning business.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. Mr. President, I ask unanimous consent to speak for up to 30 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRAHAM. Thank you, Mr. President.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Stacy Rosenberg, a staff member of my office, be granted floor privileges for the duration of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Thank you very much, Mr. President.

NATIONAL PARK PRESERVATION

Mr. GRAHAM. Mr. President, on October 31 of this year, I saw yet another example of the challenges we are facing in our National Park System.

Two weekends ago, I visited Bandelier National Monument in New Mexico, located about 1 hour west of Santa Fe.

Bandelier National Monument was claimed a national monument under the jurisdiction of the Forest Service in 1916. In 1932, it was transferred to the National Park Service.

Bandelier contains 32,737 acres, of which 23,267 acres are designated as wilderness. It is a park that is intended to preserve the cliff houses of the Pueblo Indian.

I draw your attention to this photograph taken near the entrance to Bandelier National Monument. One of the cliff homes can be seen at the base of this large cliff which forms the most dramatic signature of Bandelier National Monument. This photograph gives some idea of the magnitude of the cultural resources which are located in this park.

In addition to the preservation of the cultural resource of the monument, the outstanding superintendent at Bandelier, Mr. Roy Weaver, also contends with preservation of historical resources such as 1930s CCC buildings which were constructed in order to properly present the park to its many visitors but which have fallen into a sad state of disrepair.

Using funds from the recreation fee demonstration program, Bandelier National Monument has refurbished several of these existing structures to a functional condition. This park, as many of our Nation's parks, is faced with a degradation of its core resources. One of the significant challenges is the unnatural pace of erosion within the monument's wilderness area.

This problem is in part due to intense grazing which occurred prior to the designation of the lands as a national monument in 1916. This activity ended over 60 years ago but is still impacting the resources and the health of the park. The heavy grazing prior to 1916 reduced the underbrush, allowing the pinon tree to take over the landscape. This tree is now firmly established and has prevented the growth of other natural species in the canyon of Bandelier. Without the diverse plant species in the forest to retain the soil, erosion occurs at a much more rapid pace. This erosion is one of the principal reasons why the archeological sites for which the monument was established are now severely threatened. We are in grave danger of losing artifacts, structures, and information about a people who spent hundreds of years building a society in the Southwest.

In addition to cultural resource damage to the unnatural state of the environment at Bandelier, human behavior has also had negative impacts. One of the first areas visitors to Bandelier approach, and just off the main trail, is a series of cave dwellings. Ascending the ladder into the cave is stepping back hundreds of years into a different culture. One arrives at the cave only to find the stark realities of contemporary America by a desecration of these caves with graffiti. This photograph showing an example of that desecration speaks a thousand words about the level of respect which we as a society have paid to our national treasures over the years.

There is some hope. In 1998, the Congress and the administration established a program at the suggestion of the National Park Service. It is called Vanishing Treasures. This program was the brain child of the national park superintendents from Chaco Culture National Historic Site, Aztec Ruins National Monument, and the Salinas Pueblo Missions National Monument.

The Vanishing Treasure Program seeks to restore the ruins to a condition where maintenance scheduled at regular intervals rather than large-scale restoration projects will be sufficient to keep the ruins in good condition. The program also has another very significant objective: Training the next generation of preservation specialists who can perform this highly specific, complex craftsmanship of maintaining national treasures such as these caves at Bandelier National Monument.

The original outline of the Vanishing Treasures Program called for $3.5 million in the first year, increasing by $1 million per year until it reached $6 million in the year 2001, after which it would decrease slightly until the year 2008. We hoped during that time period to have been able to have dealt with the residue of issues such as the desecration of the caves at Bandelier.

Unfortunately, beginning in fiscal year 1998, the funding was not at the recommended $3.5 million level but, rather, was at $1 million. In fiscal year 1999, it was increased to $1.3 million. The current Interior appropriations bill, which has been passed by both the House and the Senate, contains $994,000 for the Vanishing Treasures Program.

At this level of funding distributed throughout the entire Southwest, some 41 national park sites benefit from this program. At that level of funding, we cannot possibly come close to meeting the needs for the protection of our cultural treasures in the Southwest. We are effectively making the decision that we are prepared to see these cultural and historic treasures lost before we make funds available for their preservation.

We are at a crossroads in our Nation's historical efforts to protect and preserve those national treasures which are the responsibility of the National Park Service. The history of our Nation is marked by activism on public land issues. The first full century of the United States' existence—the 19th century—was marked by the Louisiana Purchase which added almost 530 million acres to the United States, changing America from an eastern coastal nation to a continental empire.

One hundred years later, President Theodore Roosevelt set the tone for public land issues in the second full history in our Nation's history. He did it both in words and action. President Theodore Roosevelt stated:

> Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or to rob, by wasteful use, the generations that will come after us.

Roosevelt took action to meet these goals. During his administration, the United States protected almost 230 million acres of lands for future public use. The question for us as we commence the third full century, the 21th century of the United States, is, can we live up to this example? Can we be worthy of the standards of Thomas Jefferson at the beginning of the 19th century and Theodore Roosevelt at the beginning of this century?

I have discussed today the issues I witnessed at Bandelier National Monument and the small efforts being made to rectify this situation. Estimates of the maintenance backlog throughout the National Park Service system range from $1.2 billion to over $3.5 billion, depending on the calculation method.

Mr. President, I ask unanimous consent to have printed at the conclusion

of my remarks an article which appeared in the Wall Street Journal of November 12 of this year entitled ''Montana's Glacier Park Copes With Big Freeze On Funds To Maintain Its Historic Structures.''

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. GRAHAM. The National Park Service this year requested $194 million for its operation and maintenance. In this year's appropriations process, the House and Senate had the good judgment to actually increase the National Park Service request to $224.5 million. This is a good step forward, and I commend the Appropriations Committee for having taken it.

However, if we are to prevent the existing backlog from growing, we must support periodic maintenance on the existing facilities in the Park System. I see we have now as our Presiding Officer a person who has probably studied more, thought more, and done more to deal with this problem than any Member of the Congress, the distinguished Senator from Wyoming.

I wish to take this opportunity to commend the Presiding Officer for his efforts in the program of the demonstration recreational fee in the Park System. I showed a moment ago a photo of a portion of some buildings at Bandelier National Park in New Mexico which were in serious disrepair. Largely because of the ability to direct some of those national park demonstration funds to their rehabilitation, they are now being saved and will serve for many years to come. It is a very constructive role in this national monument as well as protecting other valuable historic structures within the national monument.

I wish to thank the distinguished Senator from Wyoming for the leadership he has given in that regard.

I am sad to report that the Interior conference report, which will probably soon be before us, has recommended a reduction in the cyclical maintenance of the National Park System and repair and rehabilitation accounts. While these reductions are relatively small—$3 million in the case of cyclic maintenance and $2.5 million in repair and rehabilitation—failure to meet these basic annual maintenance requirements will only add to our backlog of unmet needs. We cannot make the progress we must make in protecting our national treasures with these Band-Aid solutions.

I suggest, building on the leadership you provided through the Demonstration National Park Fee Program, and the changes that were made in the relationship of the parks to their concessionaires, that we can go further in assuring the long-term well-being of our National Park System.

In my judgment, what the National Park Service needs is a sustained, reliable, adequate funding source that will allow the Park Service to develop intelligent plans based on a prioritization of need, with confidence the funds will be available as needed to complete the plans. This approach will allow common sense to prevail when projects are prioritized for funding.

In some cases, such as one with which I am personally very familiar, committed, and engaged—the Florida Everglades and the Everglades National Park—natural resource projects can be compared to open heart surgery. You simply cannot begin the operation, open the patient, and then fail to complete the operation if the money runs out before the surgery is finished. To do so is to assure the patient will die in the surgery suite.

In cases such as Bandelier National Monument and the Ellis Island National Monument, another great national treasure, which I visited on September 27 of this year, we are in a race to complete a known cure before the patient is lost. Bandelier's superintendent, Roy Weaver, is taking every effort he can to preserve the resources in his park. He is focusing the park entrance fees on repairing and maintaining historical structures. He is using funds available through the Vanishing Treasures Program to restore the multitude of cultural resources in the monument.

Mr. Weaver is a superintendent whose knowledge of the history of the people who resided in this area of the country hundreds of years ago and whose desire to preserve their culture are evident even in a brief visit. Mr. Weaver's enthusiasm and dedication embody the conservation ethic of President Theodore Roosevelt and the National Park Service. It is our responsibility to give Mr. Weaver and his colleagues across America the tools they need to put their enthusiasm to work. It is time to take the next step.

Earlier this year, with Senators REID and MACK, I introduced S. 819, the National Park Preservation Act. This act would provide dedicated funding to the National Park Service to restore and conserve the natural resources within our Park System. This legislation seeks to address the long-term efforts required to truly restore and protect our natural, cultural, and historic resources in the National Park System. This legislation would allocate funds derived from the use of a nonrenewable national resource—offshore drilling in the Outer Continental Shelf for oil and gas—to a renewable resource, restoration and preservation of natural, cultural, and historic resources in our National Park System.

At the beginning of this century, in a time of relative tranquility, President Theodore Roosevelt managed to instill the Nation with a tradition of conservation. He did so with this simple challenge: Can we leave this world a better place for future generations?

We are at the end of this century and at the end of the first half of the 106th Congress. As we embark on the third century of our Nation's adventure and the second half of the 106th Congress, let us keep the vision of Theodore Roosevelt in mind. Let us take action to protect our National Park System.

In the words of President Theodore Roosevelt:

The conservation of natural resources is the fundamental problem. Unless we solve that problem, it will avail us little to solve all others.

EXHIBIT 1

[From the Wall Street Journal, Nov. 12, 1999]

MONTANA'S GLACIER PARK COPES WITH BIG FREEZE ON FUNDS TO MAINTAIN ITS HISTORIC STRUCTURES

(By John J. Fialka)

GLACIER NATIONAL PARK, MONT.—Few places on earth are as legally protected as this park. The United Nations deems it a ''World Heritage site.'' Under U.S. law, 350 buildings in the park are registered historic structures. Four hotels and the road spanning this spectacular, million-acre chunk of America are ''national historic landmarks.''

So why are many of these buildings and the road literally falling apart?

Over the past 30 years, as lawmakers and park officials have heaped praise and protected status on Glacier, they have consistently failed to provide the money to maintain it. The current bargaining between Congress and the White House on the shape of the next budget doesn't seem likely to change that. The upshot: Much of the man-made part of this mountainous park has evolved into a kind of dangerous national antique.

Among the park's most endangered attractions:

Many Glacier Hotel. It may look the same as it did when it was built in 1915, but underneath its newly painted wooden facade, tired old timbers are beginning to shift. That makes hallways bend this way and that, windows that won't open and doors that won't close. The steam heating system, unaccustomed to such action, springs six leaks a night.

Going-To-The-Sun Road. An engineering marvel, built to cross the park and climb the Continental Divide in 1932, is now marvelous to engineers because it hasn't yet succumbed to the force of gravity. But two-inch cracks are appearing in its pavement. Many of its retaining walls lean recklessly out into space. Melting snow is washing away the road's foundation, creating odd voids that need filing.

The ''Jammers.'' The park's much-loved fleet of buses, built in the late 1930s to ply the road, were condemned in August. Their engines, brakes and transmissions had been replaced, but metal fatigue and cracks in their frames raise new safety and liability problems.

''This is the oldest fleet of vehicles in the world,'' says Larry Hegge, the chief mechanic for the buses, who discovered the cracks. Now the 34 red buses with shiny, chrome-toothed radiators and pull-off canvas tops sit nose-to-tail in a damp, dimly lit shed. Mr. Hegge worries that the termites there are eating upper parts of the jammers' frames, which are made of oak.

NO SOLUTION IN SIGHT

At the moment, no one knows how to fix these problems. Glacier Park Inc., the park's main concessionaire, owns the buses and the hotels. It's questioning a variety of experts to see what might be done and at what cost. The departing park superintendent, David A. Mihalic, recently apointed a 17-member committee to advise him about the road.

The numbers they're looking at aren't encouraging. It could cost at least $100 million

to restore four major wooden hotels. Estimates for rebuilding the road start at $70 million and climb steeply. The park's annual budget is $8 million. ''Glacier has never had the money to keep up with maintenance and repair,'' shrugs John Kilpatrick, the park's chief engineer.

For Superintendent Mihalic, who has just been transferred to Yosemite, running Glacier has been an eerie flashback to 1972, when he took his first job there as a park ranger. He came back as superintendent in 1994 to find ''nothing had changed. We had the same old sewer systems, the same roads, the same hotels, the same visitor accommodations.''

USING A 'FACADE'

Mr. Mihalic had to resort to what some park experts call ''management by facade.'' Visible things get fixed. Less visible things get deferred. ''If we're having trouble getting the money to just fund the big-ticket items, like roads and sewage and water systems, a lot of public services, such as trail maintenance and back-country bridges, never make it to the top of the list,'' he says.

To be sure, Mr. Mihalic isn't the only park superintendent to wrestle with this. The Interior Department's U.S. Park Service places the bill for deferred maintenance and construction needed to fix time-worn facilities in its 378 parks at around $5 billion. ''Culturally, we try to hide the pain in the Park Service,'' explains Denis Galvin, the service's deputy director.

The day is coming when hiding the pain here may no longer be possible. Last year the Park Service proposed that the cheapest and quickest way to deal with the crumbling, much-patched Going-To-The-Sun road would be to close it for four years and rebuild it. That produced a furor among people in the business community surrounding the park.

They're now part of the advisory committee struggling to come up with ways to keep it open and fix it at the same time.

RULES FOR RESTORATION

As for the Many Glacier Hotel, the latest estimates are that it would cost $30 million to $60 million to bring it back to the glory days when guests arrived by railroad and received world-class accommodations. ''We could never recover that. You would be talking about renting rooms for $400 to $500 a night,'' says Dennis Baker, director of engineering for the concessionaire Glacier Park, a subsidiary of Phoenix-based Viad Corp. Park rules currently limit hotel room rates to $120. The park's season lasts only about 100 days.

As for Mr. Hegge, keeper of the park's bus fleet, he's looking for experts to tell him how to refit his buses with new chassis or to build replicas. Because they are federally registered historic landmarks, the road and the hotels also must be restored to the way they were with the same materials, adding many millions more to the cost.

Just where the millions will come from to fix Glacier and many other maintenance-starved parks is, of course, the biggest question. Democratic Sen. Bob Graham of Florida has introduced legislation to earmark $500 million a year from federal offshore oil royalties for buying park land and fixing parks.

Over time, he's sure it would save money, ''That would allow them to plan more than a year ahead. They could let contracts for multiple buildings at a time,'' explains the senator, who says support for the measure has been slow but is growing.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WTO ACCESSION OF CHINA

Mr. BAUCUS. Mr. President, I congratulate Ambassador Barshefsky and the administration on reaching an agreement this week with China on WTO accession. This demonstrates that a policy of ''engagement with a purpose'' works. I believe the Chinese leadership, in particular Premier Zhu Rongji and President Jiang Zemin, have shown foresight, courage, and vision in making the commitments necessary to conclude this bilateral agreement. I am also glad President Clinton worked so diligently over the last several months to finalize the arrangement.

I believed in April that the April 8 arrangement with China was a good one. My preliminary evaluation of this week's agreement is that it goes beyond the April 8 agreement and provides further benefits to American economic interests.

There are still several steps before China can accede to the WTO.

China must complete other bilateral agreements, in particular with the European Union. Next, the protocol of accession must be completed. Then, the focus of attention will turn to us in the Congress.

In order to receive the benefits we negotiated with China, the United States has to grant China permanent normal trade relations status. To do this, Congress has to amend the Jackson-Vanik amendment.

I am confident that a majority in both Houses will vote to amend Jackson-Vanik. But it will take a lot of work. The administration, the agriculture, manufacturing, and service industries, and those of us in the Congress who have followed these negotiations and the U.S.-China relationship closely over the years, must educate and explain to our colleagues about the benefits of the agreement reached this week and the advantages to the United States of having China in the WTO.

As we in the Congress begin to think about this issue and deliberate on it next year, I see four principal benefits to the United States.

First, this week's agreement opens up new markets in China, with its population of 1.3 billion, for American farmers, manufacturers, and service industries. This will help sustain American economic growth.

Second, the agreement gets China into the global trading system, which forces them to play by the rules of international trade.

For perhaps the first time in history, China will be accountable for its behavior to the outside world. The dispute settlement system at the WTO is far from perfect, but it forces a country to explain actions that other members believe violate the global rules. And, when a violation is found, it puts pressure on that country to comply with the rules. In addition, there is a little known feature of the WTO called the Trade Policy Review Mechanism, the TPRM. Every few years, a country's entire trade system is reviewed by all other members. Again, this type of scrutiny of China is virtually unprecedented.

Third, the agreement will help strengthen the economic reformers in China, especially Premier Zhu Rongji who has clearly been in a weakened position this year. Economic reform, moving to a market economy, transparency—that is, opening up, less secrecy—direct foreign investment, listing of companies on overseas markets—progress in all these areas is of vital importance to the United States as they relate to stability in China, as they relate to accountability, and as they relate to a growing middle class.

Fourth, Taiwan, the 12th-largest economy in the world, has almost completed its WTO accession process. Yet it is a political reality internationally that Taiwan cannot join the WTO before China. So, with China's admission to the WTO, Taiwan will follow very quickly. All of us should welcome that.

The Congress has been concerned about many aspects of the U.S.-China relationship: espionage allegations, nuclear proliferation, human rights, and Taiwan. These are all serious issues, and we must confront each one head on.

But, I, and I believe most Members of Congress, are able to look at each issue on its own merits. When Congress examines closely the arrangement for Chinese accession to the WTO, I am confident that Members will conclude that extending permanent normal trade relations status to China is now in the best interest of the United States.

I don't want to sound pollyannaish about this. Once China is a member of the WTO and the United States has granted permanent NTR status, the real work of implementation begins. We have learned over the years that implementation of trade agreements takes as much effort, or even more effort, than the negotiations themselves. The administration will have to provide us with a plan about implementation. We in the Congress will have to devote additional resources and energy to ensuring full Chinese implementation.

Earlier this year, I introduced a bill to establish a Congressional Trade Office to provide the Congress with additional resources to do exactly that. I hope my colleagues will look at that proposal and give it their support. In addition, I will be introducing some measures to help ensure that the administration—this one as well as future administrations—never deviates

from the task of full implementation of agreements with China.

In conclusion, this is a good agreement. It serves American interests.

We have a lot of work ahead of us to help implement it and to follow up next year to make sure it is implemented. It deserves our support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the situation? Are we still in morning business or is this a matter of some dispute?

The PRESIDING OFFICER. Morning business has expired, but the Senator is certainly free to proceed.

Mr. LEAHY. Once morning business has expired, do we go back on the bankruptcy bill?

The PRESIDING OFFICER. That is the understanding, yes.

EXTENSION OF MORNING BUSINESS

Mr. MACK. Mr. President, I ask unanimous consent that the period for morning business be extended until 2 p.m. under the same terms as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE WORLD FOOD PROGRAM

Mr. LEAHY. Mr. President, last week there was a terrible tragedy affecting the United Nations' World Food Program. This occurred when one of their planes crashed in Kosovo on an errand of mercy.

Since its inception in 1963, the World Food Program has been the United Nations' front line for fighting hunger throughout the world. It is the world's largest food aid organization.

Last year, the World Food Program assisted 75 million people in 80 countries around the world. This summer I observed their operations in Kosovo. In fact, at one point I was invited to fly on the same plane that crashed, to go and see what they were doing.

The World Food Program's mission is to eradicate hunger. I think that in the last seven years it has moved closer and closer to accomplishing this goal under the leadership of Executive Director Catherine Bertini. I was very proud to support Catherine when she was appointed to be executive director in 1992, during the administration of President Bush. She became the first woman to head the World Food Program. I have been a strong supporter for her ever since. She has done a great job as executive director, and I am glad that she continues to lead the World Food Program today.

For many, the World Food Program is known for its emergency response efforts. It was one of the first organizations to move into the Balkan region when the conflict in Kosovo began.

As I mentioned earlier, during the August recess I visited the World Food Program and met with Catherine Bertini and talked to her about how their efforts were going. I believe they are doing a great job. Areas which had previously been empty fields have been transformed into makeshift cities where thousands of people seeking safety, food and shelter have found relief, thanks to the efforts of the World Food Program, Catholic Relief Services and other international organizations.

But emergency relief efforts such as this reflect only a portion of the World Food Program's responsibilities. The World Food Program's Food for Work programs feed millions of chronically hungry people worldwide. They contribute more grants to developing countries than any other United Nations agency. That is why so many people around the world felt the same degree of sadness that I and others in the Senate did when we learned of the plane crash on Friday in which a World Food Program plane, en route from Rome to Pristina, crashed into a mountain ridge just miles from their destination, killing all 24 people aboard the plane.

The passengers aboard this plane were an international group of aid workers. They were all headed to Kosovo to become part of the humanitarian mission there. In a war-torn area, these were 24 people going to bring solace, aid, and help to people who have seen so little of it over the years. They were people who were motivated by the greatest sense of charity and giving to their fellow human beings. They worked for U.N. agencies, nongovernmental organizations, and government agencies, all united by a sense of humanitarianism.

The loss of these individuals is going to be felt throughout the world. They were people who demonstrated over and over again that their fellow human beings were the most important things in their lives. Their deaths are a major loss to their families, as well as the organizations, including the World Food Program, for which they worked.

I send my sincere condolences to the families of those killed in this tragic crash, and I hope the world will understand they have lost 24 of their finest people.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 1924 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

BANKRUPTCY REFORM ACT

Mr. LEAHY. Mr. President, I know we are going on to the bankruptcy bill later today. We made progress on the bill last week. We cleared 25 amendments and improved the Bankruptcy Reform Act. We will continue to try to do that again today. The distinguished Senator from New Jersey, Senator TORRICELLI, and I, working with the distinguished deputy Democratic leader, the Senator from Nevada, are prepared to enter into a unanimous consent agreement to limit the remaining Democratic amendments to only 28 amendments. Most of these would limit us to very short time agreements. I will speak on this more this afternoon. I want Senators to know that.

SATELLITE HOME VIEWERS' ACT AND PATENT REFORM ACT

Mr. LEAHY. Mr. President, I hope that the leadership will soon bring up for a vote the conference report regarding the Satellite Home Viewers Act and the Patent Reform Act. This legislation passed the House of Representatives by a vote of 411–8. According to an informal whip count, if it came to a vote in the Senate, it would pass by something like 98–2, and no worse than 95–5. So we ought to bring it up for a vote.

I don't know when I have gotten so much mail on any subject as I have on satellite home viewing. If you come from a rural area, you know how important this legislation is. If we do not pass the Satellite Home Viewers Act, on December 31 hundreds of thousands—maybe millions—of satellite viewers will find that a number of their channels will be simply cut off, especially in rural areas.

So when we have something that could easily be passed, we ought to do it. The patent legislation is supported—the so-called Hatch-Leahy bill—by most businesses I know. It would be a tremendous step forward in helping us to be competitive with the rest of the world in our patent legislation. It is also the second time in history that we have lowered the cost of patent registration to the taxpayers. So I urge that when we have a piece of legislation like this, which has passed the House of Representatives 411–8, which would pass overwhelmingly in the Senate, that the Republican leadership bring it up. Passing this bill will give some aid to many businesses throughout the country, including some of the finest technological businesses in the world.

And on the satellite front, this bill will allow the many individuals who rely on satellite dishes because they live in rural areas to be able to continue to get their television.

I think of States like my own State of Vermont, such as the State of Montana, the State of Texas, the State of Wyoming, and the State of Nevada, to name a few, where because of our rural nature, people are very dependent on satellite dishes. These satellite dish owners are justifiably concerned that on December 31, many of their channels are going to go dead. We can stop that by passing this legislation this week.

The Satellite Home Viewers Act conference report will soon be before us. It

passed overwhelmingly in the House, as it will here. I only know of two or three people who are opposed to it. That should not be enough to stop this bill.

In fact, I will join with the majority leader if he wants to bring the satellite bill up and instantly file cloture. I could get him the necessary signatures in 20 seconds. I can guarantee him that if it was necessary—and I hope that it would not be—to vote cloture, he would get far more than the 60 votes necessary for it; 90 to 95 Members of the Senate want to pass this. I hope the distinguished majority leader will allow it to come to a vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). In my capacity as the Senator from New Hampshire, I ask unanimous consent that the quorum be rescinded.

Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. On behalf of the leader, I ask unanimous consent that the period for morning business be extended until 4 p.m. under the same terms as previously ordered.

Hearing no objection, it is so ordered.

In my capacity as the Senator from New Hampshire, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, is the Senate currently in morning business?

The PRESIDING OFFICER. The Senate will be in morning business until the hour of 4 p.m.

REGULATING THE INTERSTATE TRANSPORT OF PRISONERS

Mr. DORGAN. Mr. President, I have introduced a piece of legislation in the Senate with my colleagues, Senator ASHCROFT from Missouri, and Senator LEAHY from Vermont. I have written this legislation with their assistance to deal with a problem that could cause and will cause and perhaps has caused significant jeopardy to Americans, American families and others.

Let me describe the circumstance. There is a young girl from North Dakota named Jeanna North. Jeanna was a wonderful 11-year-old young girl from Fargo, ND, who was brutally murdered by a man named Kyle Bell. Kyle Bell had previously been sentenced to 30 years in prison for assaulting three other girls, had been convicted of violent acts, and then sentenced to life in prison for murdering this 11-year-old girl, Jeanna North, in Fargo, ND.

This convicted child murderer and violent offender, after being convicted and sentenced in the courts of North Dakota, was being transported to prison in another state. Apparently, folks who molest children and are convicted of crimes against children sometimes are put in prisons elsewhere because they run into problems in prison. Even in that culture they are not considered very good people, so child molesters are sent to other prisons for their own safety. This fellow named Kyle Bell, who killed young Jeanna North, was being transported to a prison in the State of Oregon.

This convicted child killer was being transported by a private company which was contracted by the State of North Dakota. Apparently—and I wasn't aware of this—there are transport companies that hire themselves to State and local governments to transport prisoners and criminals around the country. The private company's name was Transcor.

Kyle Bell was on a bus with more than a dozen other prisoners. The bus stopped in New Mexico at a gas station. One guard got out of the bus to fill the bus with some fuel, a second guard got out of the bus and went into the service station apparently to buy a hamburger or whatever one was going to buy at the food station, and two other guards fell asleep on the bus. The other guards slept on the bus.

Kyle Bell, a convicted child killer, in handcuffs and shackles—with one guard putting gas in the bus, the second guard buying food in the gas station, and the other two asleep in the front seat—Kyle Bell took a key he had in his shoe, took off his shackles and climbed out the ventilator, the roof of the bus. That bus then continued on its route. It wasn't for 9 hours, when the bus was already in Arizona, that the guards discovered this convicted child killer had escaped. Nine hours later they finally discovered he had escaped. Two hours after that, the guards finally notified law enforcement authorities.

Today this man is somewhere in this country. ''America's Most Wanted'' did a story last Saturday, the second they have done. Now over a month has gone by and this violent child killer is somewhere on the loose.

Why? Because a private company that is required to meet no standards at all hired itself out to haul violent criminals. If you hire yourself out to haul toxic waste interstate, I will tell you one thing: you are going to have to meet standards. If you are going to haul toxic waste, one State to another, you have to comply with reasonable standards for public safety. The same is true if you haul circus animals. The same is true if you are trucking cattle across the country. But if you truck convicted killers across the country—no standards at all. If you want to be in that business, get your cousin, your brother-in-law, maybe a couple sons, buy a minivan and you are in business. Contract with a State or local government and you can haul violent criminals through Arizona, New Mexico, North Dakota, New Hampshire, anywhere. You do not have to meet any minimum standards. There is something wrong with that.

Senator ASHCROFT and I and Senator LEAHY are introducing a piece of legislation saying: If you are holding yourself out to do business hauling violent criminals interstate in this country, then you must meet some reasonable minimum standards.

When Kyle Bell walked away from that rest stop, he was wearing civilian clothes. Apparently, he walked into a parking lot, they think, of a shopping center. But he wouldn't have been noticed as a convicted child killer because he was wearing civilian clothes. One would ask the question: if you are hauling a convicted killer across this country, why would you not have that convicted killer in an orange suit that says ''prisoner'' on it? Instead, he was sitting on that bus with a key in his shoe and civilian clothing, so when he slipped out of that bus when the guards were asleep and walked into a shopping center parking lot, apparently no one noticed. So over a month has gone by and people in this country are at risk because this convicted killer is on the loose.

This young girl, Jeanna North, who died, you can imagine how her folks feel. I talked to her folks last week. The aunt and uncle of Kyle Bell, this murderer, are worried as well because he has threatened his own relatives.

The point is this: All of this has happened because a private company decides it is going to hire itself out to haul killers around the country, but there are no standards to be met. Senator ASHCROFT and I and Senator LEAHY believe the Justice Department ought to write standards—no tougher than they themselves will follow in the Federal Bureau of Prisons or the U.S. Marshals Service. Incidentally, they do transport killers all across the country. The U.S. Marshals Service has done it for years; so has the Federal Bureau of Prisons. We believe there ought to be some minimum standards that apply to these companies. The Justice Department ought to be able to establish those standards that are no greater than the standards that will be complied with by the Federal agencies themselves.

Is this, this escape of Kyle Bell, some sort of strange and unusual occurrence? No, regrettably it is not. Let me give a few examples.

Although there are no reporting requirements for private companies that haul convicted prisoners across this country, media reports indicate that in the last 3 years alone, 21 violent convicted prisoners have escaped during transport by private companies. No

Federal Bureau of Prisons prisoners have escaped during transport—none. U.S. Marshals Service—it has been years and years since the Marshals Service has had anyone escape from their custody during transport. But private companies that are unregulated and have no requirements to meet?

July 24, 1999: Two men convicted of murder escaped while being transported from Tennessee to Virginia. Two guards went into a fast food restaurant to get breakfast for the convicts. When they returned, they didn't notice the convicts had freed themselves from their leg irons. While one guard returned to the restaurant, the other stood watch outside the van, but he forgot to lock the door. The inmates kicked it open and fled. One was caught 45 minutes later; the other stole a car and was free for 8 hours before being apprehended.

July 30, 1997: Convicted rapist and kidnaper Dennis Glick escaped while being transported from Salt Lake City to Pine Bluffs, AR—again by a private company. While still in the van, Glick grabbed a gun from a guard who had fallen asleep. He took seven prisoners, a guard, and a local rancher hostage, and led 60 law enforcement officials on an all-night chase across Colorado before being recaptured the next morning.

November 30, 1997: Whatley Rolene was being transported from New Mexico to Massachusetts. He was able to remove his handcuffs and grab a shotgun while one guard was in a gas station and the other slept in the front seat. He later surrendered after a showdown with the Colorado State Patrol and a local sheriff's office.

December 4, 1987: During transport, 11 inmates escaped from a private company after overpowering a guard in the van. Among the escapees was convicted child molester Charles E. Dugger and convicted felon and former jail escapee Homer Land. Apparently, they shed their shackles by either picking their locks or using a key. The guard in the van opened the van doors to ventilate it while the other guard was inside the Burger King. The guard in the van had been on the job less than a month.

The man named Dugger was apprehended a short time later, but Homer Land forced his way into the home of a couple in Owatonna, MN, held them hostage for 15 hours, and forced them to drive into Minneapolis where they escaped when Land went into a store to buy cigarettes. He was later apprehended on a bus headed to Alabama.

August 28, 1986: A husband-and-wife team of guards showed up at an Iowa State Prison to transport six inmates, five of them convicted murderers, from Iowa to New Mexico. When the Iowa prison warden saw there were only two guards, a husband and wife, to transport six dangerous inmates, five of them convicted murderers, he responded, ''You've got to be kidding me.'' Despite his concerns, the warden released the prisoners to the custody of the guards when he was told the transport company had a contract to move these prisoners.

Despite explicit instructions not to stop anywhere but a county jail until reaching their destination, the guards decided to stop at a rest stop in Texas. During the stop, the inmates slipped out of their handcuffs and leg irons and overpowered the two guards. The six inmates stole the van and led police on a high-speed chase before being captured.

The escape was not even reported to the local police by the guards who were at fault but instead by a tourist who witnessed the incident.

There is clearly something wrong here. I mentioned a few of these examples. Violent prisoners are being hauled across this country, interstate transportation, without the kind of basic precautions you would expect. Again I say if you want to haul toxic waste interstate you must meet specific safety criteria. But that is not the case if you want to haul violent criminals.

What if you or your family were to drive up to a gas station and stop next to a minivan that is holding three convicted murderers being transported by some guy and his two sons-in-law to a prison in California? Is that something you would worry about? I would. People in this country ought to worry about that. There ought to be standards.

It is interesting that most of these escapes occurred when a private company stopped at a fast food place or to get fuel. Do you know what federal agencies do when they need to stop someplace? They try to only stop at a police station or jail or prison so they have decent help in making certain these folks are not going to escape during a stop.

None of this makes any sense. All of us know this is not the way to do business. The Kyle Bell escape is just the most recent. God forbid that this man should murder someone while he is out. God forbid someone is injured, hurt, or murdered during this person's escape.

This story of Kyle Bell's escape was on ''America's Most Wanted,'' last Saturday night. I don't know whether he will be apprehended, when he will be apprehended, where he might be apprehended. But this country and its law enforcement authorities should not be having to go through this. This person should be in a maximum security prison in the State of Oregon right now. That is where he was headed. He should be serving life in prison for the killing of this 11-year-old girl. Instead, he is somewhere out there in this country, a danger to the American people because we have private transport companies that are required to meet no regulations, no minimum standards.

The legislation I have introduced is rather simple. With my colleague from the State of Missouri, Senator ASHCROFT, and my colleague, Senator LEAHY, from Vermont, I have introduced legislation that will say the Justice Department shall establish minimum standards and minimum requirements a business must meet in order to transport violent offenders. I am only talking about violent offenders. Among those would be the requirement of certain kinds of handcuffs and shackles, the requirement for violent offenders to wear easily recognized, bright clothing identifying them as prisoners, and a range of other sensible ideas.

The bill does not allow the Justice Department to impose requirements on the private sector that exceed the requirements the U.S. Marshals Service or the Federal Bureau of Prisons themselves will meet as they transport prisoners. But it seems to me reasonable, and it does to my colleagues as well, that we ought to require some basic, thoughtful, commonsense standards to be met on the part of these private companies.

I should also say that some of the companies themselves believe this is a reasonable thing to do. Some of the transport companies themselves say there needs to be some set of standards. Because when anyone can get into this business without taking reasonable precautions, we will have convicted murderers escaping and the American public will be at risk.

This legislation is supported by a wide range of organizations: The National Sheriffs Association, the American Jail Association, the California Correctional Peace Officers Association, the New York Correctional Officers and Police Benevolent Association, the North Dakota Chiefs of Police Association, the North Dakota Fraternal Order of Police, the Victims Assistance Association in my State, the Klaas Kids Foundation in California, the Megan Nicole Kanka Foundation, and others.

We call this bill Jeanna's bill. It is called Jeanna's bill in the hopes that the memory of this 11-year-old girl, Jeanna North, might serve for the Congress to pass good legislation that will impose sensible, commonsense requirements on private companies transporting violent criminals so some other family will not have to go through the agony, the heartbreak, and the sheer terror that has visited the North family—first because of the murder of their daughter, then the trial of the murderer, and now the murderer's escape.

Let us hope Congress can pass this kind of legislation and we will not in the future be seeing stories about private companies allowing convicted killers to escape while they are being transported to their life in prison in a maximum security institution.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. FEINGOLD. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING RON DAYNE

Mr. FEINGOLD. Mr. President, I am on the floor today principally to continue to battle for our Wisconsin dairy industry and Wisconsin dairy farmers. As I was here today, I had a chance to reflect on something else about Wisconsin that we will be bragging about today. I come here as a proud alumnus of the University of Wisconsin-Madison. Of course, I am talking about the new career rushing record in college football just set by one of the greatest Badgers of all time, Ron Dayne.

Ron Dayne rushed his way into football glory on Saturday. After rushing for an incredible 6,181 yards in his career, he needed only 99 yards to break the record set last year by Texas's Ricky Williams.

Short runs throughout the first half brought him within yards of the record and helped his team build an early lead. Then, with 5 minutes left in the second quarter, he broke the record on a 31-yard sprint and went on to rush a total of 216 yards to help catapult the Badgers—with my apologies to my colleagues from the Hawkeye State—to a crushing 41–3 victory against Iowa.

I quote from Matt Bowen, a leading tackler for the University of Iowa, on the difficulty of stopping University of Wisconsin running back Ron Dayne. Matt said: ''It's like trying to catch a couch as it tumbles down a few flights of stairs.''

With this achievement, Ron Dayne has rushed his way into the front of a pack of Heisman hopefuls, and he has helped guarantee his team another trip to Pasadena on New Year's day as the undisputed champions of the Big 10. Through it all, Ron Dayne has been a model person as well as a model team player, exhibiting a modesty and dedication that make him a Badger hero for the ages.

On Saturday, as jubilant Badger football fans waved their souvenir Dayne towels in the air at Camp Randall Stadium and chanted Ron Dayne's name, they celebrated a great victory for Wisconsin, and above all they celebrated a player who does honor to his school, to himself, and to the game he has taken to a new level of excellence.

The Great Dayne, as we all him in Wisconsin, finishes his regular season career with a phenomenal record of 6,397 rushing yards. He has secured himself a lofty place in the history of college football, and a permanent place in the hearts of every Wisconsin Badger fan. As Ron Dayne said about his incredible run into the record books, ''It's kind of sinking in now. This is the best.''

As a Wisconsinite and a dedicated Badger fan, I can tell you that it truly is the best, and that Ron Dayne, the best all-time rusher in college football, is a true Badger hero.

Mr. President, On Wisconsin!

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

BANKRUPTCY REFORM ACT OF 1999

The PRESIDING OFFICER. The Senate will now resume consideration of S. 625, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

Pending:

Feingold amendment No. 2522, to provide for the expenses of long term care.

Hatch/Torricelli amendment No. 1729, to provide for domestic support obligations.

Leahy amendment No. 2529, to save United States taxpayers $24,000,000 by eliminating the blanket mandate relating to the filing of tax returns.

Wellstone amendment No. 2537, to disallow claims of certain insured depository institutions.

Wellstone amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices.

Feinstein amendment No. 1696, to limit the amount of credit extended under an open end consumer credit plan to persons under the age of 21.

Feinstein amendment No. 2755, to discourage indiscriminate extensions of credit and resulting consumer insolvency.

Schumer/Durbin amendment No. 2759, with respect to national standards and homeowner home maintenance costs.

Schumer/Durbin amendment No. 2762, to modify the means test relating to safe harbor provisions.

Schumer amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable.

Schumer amendment No. 2764, to provide for greater accuracy in certain means testing.

Schumer amendment No. 2765, to include certain dislocated workers' expenses in the debtor's monthly expenses.

Dodd amendment No. 2531, to protect certain education savings.

Dodd amendment No. 2753, to amend the Truth in Lending Act to provide for enhanced information regarding credit card balance payment terms and conditions, and to provide for enhanced reporting of credit card solicitations to the Board of Governors of the Federal Reserve System and to Congress.

Hatch/Dodd/Gregg amendment No. 2536, to protect certain education savings.

Feingold amendment No. 2748, to provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed.

Schumer/Santorum amendment No. 2761, to improve disclosure of the annual percentage rate for purchases applicable to credit card accounts.

Durbin amendment No. 2659, to modify certain provisions relating to pre-bankruptcy financial counseling.

Durbin amendment No. 2661, to establish parameters for presuming that the filing of a case under chapter 7 of title 11, United States Code, does not constitute an abuse of that chapter.

Torricelli amendment No. 2655, to provide for enhanced consumer credit protection.

Wellstone amendment No. 2752, to impose a moratorium on large agribusiness mergers and to establish a commission to review large agriculture mergers, concentration, and market power.

AMENDMENT NO. 2663

(Purpose: To make improvements to the bill)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 2663.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 107, line 7, strike ''(C)(i) for purposes of subparagraph (A)—'' and insert the following:

''(C) for purposes of subparagraph (A)—

''(i) if the debtor, and the spouse of the debtor in a joint case, as of the date of the order for relief, have a total current monthly income greater than the national or applicable State median family monthly income calculated on a monthly basis for a family of equal size, or in the case of a household of one person, the national median household income for one earner (except that for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals, plus $583 for each additional member of that household)—''.

On page 107, lines 8 and 14, move the margins 2 ems to the right.

On page 107, line 19, strike ''and'' and all that follows through line 20 and insert the following:

''(ii) if the debtor and the debtor's spouse combined, as of the date of the order for relief, have a total current monthly income that does not satisfy the conditions of clause (i)—

''(I) consumer debts owed to a single creditor and aggregating more than $1,075 for luxury goods or services incurred by an individual debtor on or within 60 days before the order for relief under this title are presumed to be nondischargeable; and

''(II) cash advances aggregating more than $1,075 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 60 days before the order for relief under this title are presumed to be nondischargeable; and

''(iii) for purposes of this subparagraph—''.

On page 111, line 20, strike ''(14A)(A) incurred to pay a debt that is'' and insert the following:

''(14A) if the debtor, and the spouse of the debtor in a joint case, as of the date of the order for relief, have a total current monthly income greater than the national or applicable State median family monthly income, calculated on a monthly basis for a family of equal size, or in the case of a household of one person, the national median household income for one earner (except that for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals, plus $583 for each additional member of that household)—

''(A) incurred to pay a debt that is''.

On page 112, line 2, insert '', with respect to debtors with income above the amount stated,'' after ''that''.

Mr. MOYNIHAN. Mr. President, the amendment is a small matter in the larger context of the legislation we are dealing with, but a very large matter to the people we are talking about who are low-income debtors. This addresses two aspects of the bill that have disproportionate negative impacts on low-income debtors.

The first aspect concerns consumer debt and cash advances. The second relates to debt incurred to pay nondischargeable debt. By nondischargeable debt, we mean the debt a consumer has to repay even if they declare bankruptcy. There are very commonsense provisions in our bankruptcy laws that say if you acquire a large debt in a short period before declaring bankruptcy, there is some presumption that you knew where you were heading and you were taking advantage of the bankruptcy laws.

Under current law, consumer debts owed to a single creditor—excluding ''goods or services reasonably necessary''—of more than $1,075 obtained within 60 days of bankruptcy and cash advances of more than $1,075 obtained within 60 days of bankruptcy are presumed to be fraudulent and thus nondischargeable.

S. 625 seeks to expand the circumstances under which such transactions would be considered fraudulent in two ways: First, by lowering the threshold amount that would trigger the fraudulent presumption to $250 for consumer debts and $750 for cash advances; and, second, by increasing the number of days prior to bankruptcy during which debt incurred and cash advances obtained would be presumed fraudulent—to 90 days for consumer debts and to 70 days for cash advances.

Under this amendment, the new threshold amounts of money and numbers of days proposed in S. 625 would apply to debtors whose total monthly income is greater than the median monthly income, but they would not apply to low-income debtors. Low-income debtors do not have much money and, at times, need to charge certain items or to take a cash advance to buy necessary goods, such as clothing. It is wrong—or so I believe—to assume these people acted fraudulently. They acted of necessity—or I believe that is a fair assumption. They did what they needed to do to get by. The thresholds as they exist under current law would continue to apply to median and below-median income families.

I will make the point that we are, by this amendment, not changing current law. We are not introducing a novel concept into bankruptcy proceedings. We are providing for low-income persons to continue to have the same presumptions in their favor, or against them, that we have lived with for many years, with fair success, as I understand it.

S. 625 adds a new exception to discharge for debt incurred to pay nondischargeable debt and creates a presumption of nondischargeability for debts incurred to pay such debt within 70 days of filing the bankruptcy petition. This amendment would retain the current state of the law as to debt incurred to pay nondischargeable debt for median and below-median income families.

I do believe this is a worthy amendment. I commend it to my colleagues. I have had the opportunity to have worked through this, and I express my own gratitude that in many years distant past I did not decide to become a bankruptcy lawyer. That would have been a complexity beyond my capacity.

Mr. President, I thank the Chair for his courtesy and the Senate for its equal attention. I commend this matter. I think it is something we would be wise to do. The essence of the proposal is: For low-income debtors, don't change the rules. They are not the problem. Don't create problems for them.

A well-documented and prevalent form of abuse by some creditors is the filing of unfounded complaints alleging that debtors committed fraud, or the use of the threat of such a complaint, to coerce debtors into giving up valuable bankruptcy rights, typically by agreeing that all or part of the debt is not discharged.

Such threats are especially potent against low-income debtors. That is why the safe harbor in my amendment is necessary. These debtors often do not have lawyers, and they certainly do not have the funds to pay hundreds or even thousands of dollars to defend against creditor litigation. When a creditor threatens to or actually files a complaint alleging fraud, the debtor has to choose either to pay to defend against the complaint (requiring a lump sum payment to an attorney of at least several hundred dollars and usually more) or to make a deal with the creditor (who will offer to take a reaffirmation or settlement with ''low monthly payments'' of perhaps $50). Most cash-strapped debtors will take the ''low monthly payment'' option, often the only thing they can afford, regardless of whether the creditor has a good case.

This scenario is played out already, in the area of dischargeability litigation. Several courts have found practices of creditors filing ''fraud'' dischargeability cases, for which there is no factual basis, simply to coerce reaffirmations, and actually dropping those cases when they are defended. Most of these cases are in fact settled through reaffirmations, because the debtors have no choice but to take the ''low monthly payment'' option.

The new presumptions of fraud proposed in S. 625, against debtors who have charged as little as $250 on a credit card, and under the amorphous standard that a debt was incurred to pay another debt, will embolden creditors to file many more of these complaints. My amendment to S. 625 addresses these presumptions. I will explain how.

First, under current law, consumer debts owed to a single creditor (excluding ''goods or services reasonably necessary'') of more than $1,075 obtained within 60 days of bankruptcy and cash advances of more than $1,075 obtained within 60 days of bankruptcy are presumed to be fraudulent, and thus nondischargeable. S. 625 seeks to expand the circumstances under which such transactions would be considered fraudulent in two ways: first, by lowering the threshold amount that would trigger the fraud presumption to $250 for consumer debts and to $750 for cash advances; and, second, by increasing the number of days prior to bankruptcy during which debt incurred and cash advances obtained would be presumed fraudulent (to 90 days for consumer debts and to 70 days for cash advances).

Under my proposed amendment, the threshold amounts of money and numbers of days triggering a presumption of fraud in S. 625 would only apply to debtors whose total monthly income is greater than the median monthly income, while the current thresholds would continue to apply to median and below-median income families.

Second, S. 625 adds a new exception to discharge for debt—a loan or credit card debt—incurred to pay nondischargeable debt with the intent to discharge such debt in bankruptcy; it also creates a presumption of nondischargeability for debts incurred to pay nondischargeable debt within 70 days prior to filing the bankruptcy petition. My proposed amendment would retain the current state of the law as to debt incurred to pay nondischargeable debt for median and below-median income families.

Nothing in the amendment would prevent a creditor with evidence of fraud from pursuing a case against a low-income debtor. However, the creditor would not be entitled to the benefit of a presumption to make its case. And low-income debtors would not be forced to spend money they don't have to defend against an expanded presumption of their dishonesty.

The filing of abusive dischargeability complaints is not a new phenomenon in bankruptcy law. It was the subject of legislation when the Bankruptcy Code

was first passed in 1978. At that time, a strong attorney's fee provision was added to the Code to deter such creditor tactics. The House Judiciary Committee report (95–595, p.131) found the problem prevalent at that time:

The threat of litigation over this exception to discharge and its attendant costs are often enough to induce the debtor to settle for a reduced sum, in order to avoid the costs of litigation. Thus, creditors with marginal cases are usually able to have at least part of their claim excepted from discharge (or reaffirmed), even though the merits of the case are weak.

Unfortunately, in 1984 Congress weakened the attorney's fees provision and added, for the first time, a presumption of fraud based on purchases in the period immediately before bankruptcy. Then the concerns of the House Judiciary Committee proved prescient. Creditors began filing fraud complaints in large numbers, and courts have found that most debtors settle those complaints, regardless of how weak they are, rather than incur the expense of litigation.

The amendment before us is a very modest one. It does not return to the law the strong attorney's fee provision enacted in 1978. It does not eliminate the presumptions of fraud that were added in 1984 and made more expansive in 1994. It does not even completely eliminate the additional presumptions of fraud added by this bill, or the new exceptions to discharge. The only thing my amendment does is to make these new presumptions of fraud inapplicable to families below median income—those who would have the most difficulty affording a defense against unfounded fraud complaints.

The amendment will not shelter anyone who commits fraud. The current fraud provisions of the Bankruptcy Code will continue to apply to them. Those provisions already clearly deem fraudulent any debt that is incurred with no intent to pay it or with an intent to discharge it in bankruptcy. My amendment merely requires that a creditor produce meaningful evidence to establish fraud, rather than rely on S. 625's new presumption of fraud, at least in cases filed by low-income families who are most vulnerable to, and least able to afford the expenses associated with, creditor-initiated litigation.

PRIVILEGE OF THE FLOOR

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that during the pendency of this amendment, Kathleen McGowan of my staff be allowed privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, seeing no other Senators seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that tomorrow, immediately following the Wellstone amendment, there be a vote on the Moynihan amendment, except for 4 minutes in between to be evenly divided for the proponents and the opponents of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, it is my understanding that no amendments would be in order to the Moynihan amendment prior to the vote.

Mr. GRASSLEY. That is right.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I know the Senator from New York is very sincere about the amendment he has proposed. I know he is cognizant of a discussion on a similar subject that we had on the amendment by the Senator from Connecticut last week. I think in a good-faith effort he comes in with something that does not go quite as far as Senator DODD's amendment goes. But I still think, for the very same reasons I expressed opposition to the Dodd amendment last week, I must express opposition to the Moynihan amendment.

In addition, I think perhaps by setting up one category for people who are in bankruptcy court who are below the national average and allowing a certain behavior on their part that you don't for people above the national average of income sets up a double standard that is not justified.

I oppose this amendment for pretty much the same reasons I opposed the Dodd amendment—that Congress needs to be very careful to fight against fraud and abuse and to say no to fraud and no to this financial abuse whenever we can. It seems to me it is a standard of ethic that is justified—being against fraud and abuse and treating it the same wherever it might happen.

One type of fraud and abuse involves loading up on debt right before bankruptcy and then discharging that debt. It doesn't seem to me we need to allow that above the limits of our legislation. The bill before us now contains provisions limiting the amount of debt incurred to purchase luxury goods within 90 days of declaring bankruptcy.

Senator MOYNIHAN's amendment would let people below the median income load up on more debt than higher income people. This lets people at low income levels get away with fraud and more fraud. I think this is not a very good idea. I respectfully oppose this amendment with obvious good intentions. I have never known Senator MOYNIHAN to have anything but good intentions, but this is one amendment that could bring about very unfair results as we allow people at a lower income get away with more fraud and abuse than we would people with higher income.

I oppose the amendment and yield the floor.

Mr. REID. Mr. President, to engage my friend on the bill generally, we have been working with the ranking member of the Judiciary Committee, Senator DASCHLE's floor staff, and Senator GRASSLEY and his staff during all or parts of the day. We are in a position now where this bill can be completed in a relatively short period of time. We have worked with Members on this side of the aisle, and with the cooperation of the manager of this bill there is a tentative agreement to accept about 10 amendments that the Democrats have offered. They may want to change the amendments in some fashion. We have been able to work on a finite number of hours that would be left in those amendments, with the exception of one Senator.

In short, for notice to the other Members of the Senate, with a little bit of luck we can finish this bill relatively shortly. I hope the majority allows Members to continue to work on this bill to complete it.

Mr. GRASSLEY. Mr. President, responding to the Senator from Nevada and going back to his efforts of last Wednesday before we adjourned for the national Veterans Day holiday, I can say that on that day as well as other periods of time over the weekend, and even as late as yesterday, between his efforts working with me and the efforts of our respective staffs, I have found the Senator from Nevada very cooperative. As a result of his cooperation, what we thought was an impossible amount of amendments to work our way through to bring this bill to finality has been dramatically reduced. The Senator needs to be credited with that extra effort.

I encourage Members on my side of the aisle to reach agreement. There may be one or two items that are above my pay grade, maybe even above the pay grade of the Senator from Nevada, that will have to be decided by leadership, but except for those items, we are making tremendous progress. I want to work in that direction, and I assure the Senator from Nevada of my efforts in that direction.

Mr. REID. Mr. President, I say to my friend from Iowa, we have made great progress. Originally, the bill had about 320 amendments. We are now down to no more than 15 amendments. Of those amendments, some can be negotiated. There are some that will require votes.

As I indicated, there is only one Senator, who has two amendments, who hasn't agreed on time for those amendments. Of course, if everyone is serious about completing the bankruptcy bill, going from 320 amendments to approximately 15 amendments says it all. We should complete this bill. Significant progress has been made.

I acknowledge there are a couple of issues that will be more difficult. However, people on our side—even on those two amendments—have agreed to times. One Senator has agreed to a 30-

minute time agreement; the other Senator has agreed to a 70-minute time agreement. As contentious as these two amendments might be, we recognize we are in the minority. We are willing, in spite of our being in the minority, to agree to a time limit to let the will of this body work. We would agree to a way of disposing of those. Two Senators feel very strongly that they deserve a vote on these two amendments.

Other than those two amendments, I think we should be able to go through this bill at a relatively rapid rate. From all I have been able to determine, we are not going to be leaving here tomorrow anyway. We should try to complete this bill if at all possible. It would be a shame if cloture were attempted to be invoked on this bill, after having gone from 320 amendments to a mere handful. I think that would leave a pretty good argument on the side of the minority not to go along with cloture. We have done everything we can to be reasonable. A few Senators desire to offer amendments. They should have the right to offer those amendments.

I have appreciated the cooperation of the Senator from Iowa, the manager of this bill, and his staff. They have been very easy to work with and very understanding of what we have been trying to accomplish.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I add to what the Senator from Nevada has said about bringing this bill, hopefully, to finality within just the last few days of this session, and I remind everybody that should be possible because of the bipartisan cooperation we had in drawing up the bill that brought the Senate to this point, as well as the fact that similar legislation passed last year on a vote of 97–1, I believe.

I ask unanimous consent to lay the pending Moynihan amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 2529 AND 2478, AS MODIFIED

Mr. GRASSLEY. I ask unanimous consent to modify amendments 2529 and 2478, and I send the modifications to the desk.

The PRESIDING OFFICER. The clerk will report.

The Senator from Iowa [Mr. GRASSLEY], for Mr. THURMOND, proposes an amendment No. 2478, as modified.

Mr. GRASSLEY. These amendments have been cleared by both sides. I ask unanimous consent they be agreed to en bloc and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2529 and 2478), as modified, were agreed to, as follows:

AMENDMENT NO. 2529

On page 115, line 23, strike all through page 117, line 20, and insert the following:

''(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days before the filing of the petition;

''(v) a statement of the amount of projected monthly net income, itemized to show how the amount is calculated; and

''(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing''; and

(2) by adding at the end the following:

''(d)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who request those documents.

''(2)(A) At any time, a creditor in a case under chapter 13 may file with the court notice that the creditor requests the plan filed by the debtor in the case.

''(B) The court shall make such plan available to the creditor who request such plan—

''(i) at a reasonable cost; and

''(ii) not later than 5 days after such request.

''(e) An individual debtor in a case under chapter 7, 11 or 13 shall file with the court at the request of any party in interest—

''(1) at the time filed with the taxing authority, all tax returns required under applicable law, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

''(2) at the time filed with the taxing authority, all tax returns required under applicable law, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order of relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and''

At the appropriate place, insert the following:

''In the case of an individual under chapter 7, the court shall not grant a discharge unless requested tax documents have been provided to the court. In the case of an individual under chapter 11 or 13, the court shall not confirm a plan of reorganization unless requested tax documents have been filed with the court.''

AMENDMENT NO. 2478

(Purpose: To provide for exclusive jurisdiction in Federal court for matters involving bankruptcy professional persons)

On page 124, insert between lines 14 and 15 the following:

SEC. 322. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b) by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (e)(2), and notwithstanding''; and

(2) amending subsection (e) to read as follows:

''(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

''(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

''(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.

Mr. SPECTER. Mr. President, I seek recognition to discuss two important provisions that were added to the bankruptcy reform bill by unanimous consent. The first provides that bankruptcy attorneys who represent debtors will be liable for paying certain attorneys' fees only if their own actions are ''frivolous''—the bill had originally required these attorneys to pay fees for merely losing the argument on a motion to remove a case from Chapter 7 to Chapter 13. The second of these provisions empowers judges to waive the bankruptcy filing fee for individuals who cannot afford to pay it, even in installments. I have fought for these two provisions, together with Senator FEINGOLD, since this bill first came before the Senate Judiciary Committee last Congress, and I believe their inclusion in the bill is a significant improvement that will ensure sufficient access to justice for all who seek relief in our bankruptcy courts.

As originally drafted, the bankruptcy bill provided that if a debtor files in Chapter 7, and a bankruptcy trustee prevails on a motion to remove the debtor to Chapter 13 because the debtor is found to have the ability to pay at least 25% of his debts, then the debtor's attorney must pay the reasonable costs and attorneys' fees incurred by the trustee in filing and arguing the removal motion.

This was an inappropriate provision. We would have had attorneys being penalized not because they were bad actors, but because they engaged in zealous advocacy on behalf of clients and happened to lose the argument. This would have had an enormous chilling effect on debtors' attorneys. In all cases where the outcome was less than certain, lawyers would have been inclined to file their clients in Chapter 13, even if they truly believe that the clients belong in Chapter 7, in order to avoid the penalty.

When the bill came before the Senate Judiciary Committee last Congress, I offered an amendment together with Senator FEINGOLD to provide that the debtors' attorneys should pay these fees only if their actions in filing in Chapter 7 were ''frivolous.'' Our amendment was defeated by a roll call vote of 9–9. We then offered our amendment on the Senate floor, where it was tabled by a vote of 57–42.

As the result of our efforts last Congress, the attorneys' fees standard was improved when the bill was re-introduced this Congress. The current version of the bill provides that lawyers must pay these fees only if their actions in filing in Chapter 7 were not ''substantially justified.'' Still, I believe that this standard is too broad and will still chill attorneys from zealous advocacy. As in every other area of the law, lawyers must be punished only if their actions are ''frivolous'' or in

bad faith. I am glad that this is the standard that is now in the bill.

A second problem with the bankruptcy bill as originally drafted was that it did not permit bankruptcy judges to waive the bankruptcy filing fee for indigent individuals. Individuals who petition for Chapter 7 bankruptcy must pay a filing fee of approximately $175. There are many individuals who are so indigent by time they decide to seek the relief of bankruptcy, however, that they cannot even afford this relatively small fee. As a result, some individuals are actually too poor to go bankrupt. This is an absurd result. In such limited cases, we must empower a judge to decide that the filing fee can waived.

Many individuals opposed to waiving the filing fee have argued that doing so would open the door to an enormous increase in the number of individuals taking advantage of the bankruptcy system. The idea is that ''free'' bankruptcies will lead to a bankruptcy bonanza.

Unfortunately, these individuals have failed to look at the record. In the appropriations bill for FY '94, Congress authorized a pilot in forma pauperis program in six federal judicial districts, including Eastern District of Pennsylvania, for three years. These pilots demonstrated that the program worked as intended, and did not significantly change the number or nature of bankruptcy filings.

In the six pilot districts, waivers were requested in only 3.4% of all nonbusiness Chapter 7 cases, and waivers were granted in only 2.9% of all nonbusiness Chapter 7 cases. This number was small enough that it did not lead to a significant increase in the number of overall Chapter 7 filings or a significant loss in revenue to the courts.

When the bankruptcy bill was before the Senate Judiciary Committee last Congress, I offered an amendment to permit the waiver of filing fees together with Senator FEINGOLD. Our amendment was defeated in Committee by a vote of 9–9. When we introduced our amendment on the floor of the Senate, however, the motion to table the amendment was rejected by a vote of 47–52, and the amendment was accepted into the bill. I am glad that this Congress our waiver provision has been included without the necessity of a vote.

Taken together, these two provisions ensure that all who are in need will have access to our bankruptcy courts and will enjoy the benefits of zealous advocacy on their behalf that is the cornerstone of our legal system. They are valuable improvements, and I commend Senators GRASSLEY, LEAHY, TORRICELLI and FEINGOLD for their inclusion in the bill.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT M. BRYANT, DEPUTY DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. THURMOND. Mr. President, the Federal Bureau of Investigation is perhaps the most renown and respected law enforcement agency in the world. Though the FBI is famous for its laboratories, embracing new crime fighting techniques, and ability to ''get its man'', the real secret and heart of this organization's success has always been its people—-the capable, courageous, and conscientious men and women who serve as Special Agents. Today, I rise to pay tribute to an individual who has given much to the FBI and the nation, Robert M. ''Bear'' Bryant, who will retire from his position as the Deputy Director of the Federal Bureau of Investigation on November 30th.

Bear Bryant's career as a Special Agent began in 1968, when he hit the foggy and mean streets of Seattle, Washington, a distinctly different environment than his native Missouri. The atmosphere in Seattle, and across the nation, was combustible and there was just the right amount of tension to spur extensive criminal and violent activities. Without question, it was a busy and dangerous time to be making one's living as a lawman, and it was in such an environment that Special Agent Bryant cut his teeth in law enforcement and made a lifelong commitment to the Bureau.

Though he certainly had no inkling as a young Special Agent that his career would take him to the most senior levels of the FBI, Robert Bryant would spend three decades criss-crossing the United States as his career moved progressively forward and up the FBI chain of command. Subsequent assignments to Dallas, Headquarters in Washington, Salt Lake City, and Kansas City, as well as promotions to Supervisor, Permanent Inspector, and Special Agent in Charge, all helped to prepare Bear for his ultimately taking the second-in-command slot in the Bureau.

Surely one of the most rewarding assignments Bear had during his career was the time he spent as Special Agent in Charge of the Washington Field Office. When he took that job in 1991, the Capital was a violent city as a result of ''crack wars'' that were breaking out in urban areas from coast to coast. As the Special Agent in Charge of the Washington Field Office, Bear Bryant was responsible for establishing the ''Bureau Safe Streets'' program, which directed significant FBI resources toward combating street-level organized crime. The success of Mr. Bryant's efforts and leadership are evident. Thanks to his efforts, in conjunction with other agencies including the Metropolitan Police, crime is down in this city today, especially those offenses associated with the crack trade. This program was so successful in the District of Columbia, it was adapted as a tactic for reducing violent crime in other cities and there are currently more than 160 taskforces in operation throughout the United States making streets safe again.

Those familiar with the FBI will tell you that service as the Special Agent in Charge of the Washington Field Office is an indication that someone is on their way to assuming one of the senior positions within the leadership of the Bureau, and in 1993, SAC Bryant was tapped for the very critical post of Assistant Director of the National Security Division. This segment of the Bureau is responsible for battling the considerable threats to national security from both outside and within the borders of the United States. During his tenure of the head of the National Security Division, Mr. Bryant was responsible for supervising and directing investigations that represented some of the most serious acts of espionage, treason, and terrorism that law enforcement has had to deal with in recent years including, the Oklahoma City bombing, the bombing of the Al-Khobar Towers in Saudi Arabia, as well as the espionage cases of Aldrich Ames, Earl Edwin Pitts, and Harold Nicholson.

Two-years-ago, Director Louis Freeh needed a new Deputy Director and given his considerable experience as an investigator, supervisor, and administrator, it came to no one's surprise that it was Bear Bryant who took the co-pilot's chair. The position of Deputy Director is one of great responsibility and importance, for it is this person who runs the day-to-day operations of the Bureau and its 28,000 agents and support personnel. In addition to assuring the smooth running of this global agency that is always on duty, Deputy Director Bryant was also tasked with drafting the Bureau's strategic plan for the next five years, a document which has been described as a ''sea change'' in FBI policy for it included a major reassessment of how resources are allocated and how the Bureau is going to do its job.

Robert ''Bear'' Bryant has had a career of impressive achievement and unflagging service. Through his work, he has taken criminals, spies, and terrorists off of our streets and put them into the prison cells where they belong, and in the process, he has helped to keep the United States and its citizens safe. After more than thirty-years since raising his right hand and taking the oath as a Special Agent, Deputy Director Bryant has decided to retire from the Federal Bureau of Investigation. We are grateful for his diligent service, and I am sure that all my colleagues would join me in wishing Mr. Bryant, his wife of 33-years, Beth, and their three children Barbara, Dan, and Matt, happiness, health, and success in all their future endeavors.

REFUGEE PROTECTION ACT OF 1999

Mr. JEFFORDS. Mr. President, I rise today to recognize the importance of the Refugee Protection Act of 1999 and to honor those most affected by this legislation.

The Refugee Protection Act of 1999 will continue a tradition that is as old as the United States itself. Our great country was founded by men and women who left their homeland for a better life in the new world. Many of these individuals escaped persecution in their home countries, made the difficult decision to leave what they knew behind and to take their chances in a new country where many did not know the language and customs or have friends or family. The Refugee Protection Act helps to continue this tradition by ensuring that those who seek entrance to the United States as refugees are given fair consideration and due process.

The Refugee Protection Act of 1999 would reinstate important protections against the deportation and refusal of refugees and asylum seekers who enter the United States from countries in which they face danger and persecution, whether it is due to ethnic, religious or political beliefs. Over the past few years Vermont has seen an increase in the number of refugees who have come to live in our great state. These refugees are well served by a number of agencies in Vermont which provide them help and promote their interests, including the Vermont Refugee Resettlement Program, the Tibetan Resettlement Project, the Tibetan Association of Vermont and Vermont Refugee Assistance. The Refugee Protection Act of 1999 will continue the example set in the state of Vermont, by welcoming refugees to our country and ensuring that all are given the full extent of protection they deserve.

MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999

Mr. CLELAND. Mr. President, I rise today to discuss S. 1501, the Motor Carrier Safety Improvement Act of 1999. During the Commerce Committee's Subcommittee on Surface Transportation hearing on this bill, I brought the attention of the entire room to a deadly tractor trailer accident that occurred in Atlanta in the early morning hours of August 31, 1999. Two lives were lost as a result of that accident, but if the incident would have occurred at a busier time of day, I shudder to think of the fatalities that could have resulted.

In 1998, 221 people were killed in Georgia as a result of truck related crashes, and thousands more were injured. Recently, I met with two people who lost their families in truck related accidents. These stories are ones which I hope will become less frequent as a result of the action we are taking in S. 1501. This bill has the opportunity to improve safety for drivers and truckers.

S. 1501 would make the Office of Motor Carrier a separate office within the Department of Transportation (DOT), as opposed to being within the Federal Highway Administration as it is now. This action will allow Congress to statutorily mandate safety as the main focus of the office. Additionally, it promotes enforcement as a main goal and provides some teeth to this new agency's punitive actions.

However, there are some areas within the legislation that I believe need attention as we work to form a final bill. For example, I believe that a conflict of interest provision should be included. Without such a provision, the new agency could continue to award contracts to the very industry that operates under the federal motor carrier safety regulations the new agency will administer. An unbiased, multifaceted panel would be a better option to conduct sensitive research with federal money.

In fact, the DOT's Inspector General (IG) released a report to Congress that cites the too close relationship between the industry and the regulators who oversee it:

> [A collaborative, educational, partnership-with industry] is a good approach for motor carriers that have safety as a top priority, but it has gone too far. It does not work effectively with firms that persist in violating safety rules and do not promptly take sustained corrective action.

I believe this finding supports the inclusion of conflict of interest standards in the final bill.

S. 1501 does a great deal to improve motor carrier safety in this country, but we can do more. I hope that the conferees on this bill will give strong consideration to including a conflict of interest provision in the final bill.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Monday, November 15, 1999, the federal debt stood at $5,686,436,332,009.22 (Five trillion, six hundred eighty-six billion, four hundred thirty-six million, three hundred thirty-two thousand, nine dollars and twenty-two cents).

Five years ago, November 15, 1994, the federal debt stood at $4,747,133,000,000 (Four trillion, seven hundred forty-seven billion, one hundred thirty-three million).

Ten years ago, November 15, 1989, the federal debt stood at $2,916,316,000,000 (Two trillion, nine hundred sixteen billion, three hundred sixteen million).

Fifteen years ago, November 15, 1984, the federal debt stood at $1,626,849,000,000 (One trillion, six hundred twenty-six billion, eight hundred forty-nine million).

Twenty-five years ago, November 15, 1974, the federal debt stood at $481,430,000,000 (Four hundred eighty-one billion, four hundred thirty million) which reflects a debt increase of more than $5 trillion—$5,205,006,332,009.22 (Five trillion, two hundred five billion, six million, three hundred thirty-two thousand, nine dollars and twenty-two cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAN AND IRANIAN ASSETS BLOCKING—MESSAGE FROM THE PRESIDENT—PM 74

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 16, 1999*.

20TH ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 75

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95–454; 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the twentieth Annual Report of the Federal Labor Relations Authority for Fiscal Year 1998.

The report includes information on the cases heard and decisions rendered by the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 16, 1999*.

1999 ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT—PM 76

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Health, Education, Labor, and Pensions.

To the Congress of the United States:

I transmit herewith the Annual Report of the Railroad Retirement Board for Fiscal Year 1998, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 16, 1999.*

MESSAGE FROM THE HOUSE

At 10:05 a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2724) to make technical corrections to the Water Resources Development Act of 1999.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2454) to assure the long-term conservation of mid-continent light geese and the biological diversity of the ecosystem upon which many North American migratory birds depend, by directing the Secretary of the Interior to implement rules to reduce the overabundant population of mid-continent light geese.

The message further announced that the House has passed the following bill, with amendment, in which it requests the concurrence of the Senate:

S. 376. An act to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1869. An act to amend title 18, United States Code, to expand the prohibition on stalking, and for other purposes.

H.R. 2442. An act to provide for the preparation of a Government report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgment of such injustices by the President.

H.R. 3073. An act to amend part A of title IV of the Social Security Act to provide for grants for projects designed to promote responsible fatherhood, and for other purposes.

H.R. 3234. An act to exempt certain reports from automatic elimination and sunset pursuant to the Federal Reports and Elimination and Sunset Act of 1995.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 122. Concurrent resolution recognizing the United States Border Patrol's 75 years of service since its founding.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 2454. An act to assure the long-term conservation of mid-continent light geese and the biological diversity of the ecosystem upon which many North American migratory birds depend, by directing the Secretary of the Interior to implement rules to reduce the overabundant population of mid-continent light geese.

H.R. 2724. An act to make technical corrections to the Water Resources Development Act of 1999.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6159. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to medical and dental care for members of the Reserve components; to the Committee on Armed Services.

EC–6160. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Canada; to the Committee on Foreign Relations.

EC–6161. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–6162. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Norway, Ukraine, Russia, and the United Kingdom; to the Committee on Foreign Relations.

EC–6163. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the Netherlands; to the Committee on Foreign Relations.

EC–6164. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–6165. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the Gulf Cooperation Council; to the Committee on Foreign Relations.

EC–6166. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to additions to the Procurement List, received November 9, 1999; to the Committee on Governmental Affairs.

EC–6167. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6168. A communication from the Director, National Science Foundation, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6169. A communication from the Inspector General, National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6170. A communication from the Inspector General, Federal Communications Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6171. A communication from the Executive Director for Operations, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6172. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6173. A communication from the Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to the Federal Manager's Financial Integrity Act and the Inspector General Act, the annual report for fiscal year 1998; to the Committee on Governmental Affairs.

EC–6174. A communication from the Secretary, American Battle Monuments Commission, transmitting, pursuant to the Federal Manager's Financial Integrity Act and the Inspector General Act, the annual report for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6175. A communication from the Executive Director, Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to the Federal Manager's Financial Integrity Act and the Inspector General Act, the annual report for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6176. A communication from the Executive Director, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, a report relative to audit reports issued during fiscal year 1999 regarding the Board and the Thrift Savings Plan; to the Committee on Governmental Affairs.

EC–6177. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1, 1999, through September 30, 1999; to the Committee on Governmental Affairs.

EC–6178. A communication from the Chairman and Chief Executive Officer, Federal Credit Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1, 1999,

through September 30, 1999; to the Committee on Governmental Affairs.

EC–6179. A communication from the Assistant Attorney General for Administration, transmitting, pursuant to law, the report of a rule entitled ''Exemption of the System of Records Under the Privacy Act'' (AAG/A Order No. 180-99), received November 9, 1999; to the Committee on Governmental Affairs.

EC–6180. A communication from the Secretary of the Army, and the Secretary of Agriculture, transmitting jointly, pursuant to law, a report relative to the jurisdiction of Military and National Forest System lands at the Army's Fort Hunter Liggett Military Reservation, California, and the USDA's Forest Service Toiyabe National Forest in Mineral County, Nevada; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–371. A resolution adopted by the board of directors of the Texas and Southwestern Cattle Raisers Association relative to invasive species; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, without amendment:

S. 1928. A bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans, and for other purposes (Rept. No. 106–222).

By Mr. HATCH, from the Committee on the Judiciary, with amendments and an amendment to the title and with a preamble:

S. Res. 200. A resolution designating the week of February 14–20 as ''National Biotechnology Week.''

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. MCCAIN for the Committee on Commerce, Science, and Transportation:

Linda J. Bilmes, of California, to be an Assistant Secretary of Commerce.

Linda J. Bilmes, of California, to be Chief Financial Officer, Department of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably nomination lists which were printed in the RECORDS of the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of October 12, 1999 and October 27, 1999, at the end of the Senate proceedings.)

In the Coast Guard, 1 nomination of Richard B. Gaines, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of October 12, 1999.

In the Coast Guard, 96 nominations beginning Peter K. Oittinen, and ending Joseph P. Sargent, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 27, 1999.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CAMPBELL:

S. 1921. A bill to authorize the placement within the site of the Vietnam Veterans Memorial of a plaque to honor Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service; to the Committee on Energy and Natural Resources.

By Mr. KERREY (for himself and Mr. GRASSLEY):

S. 1922. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for modifications to inter-city buses required under the Americans with Disabilities Act of 1990; to the Committee on Finance.

By Mr. BROWNBACK:

S. 1923. A bill to prohibit the Federal Communications Commission from applying spectrum aggregation limits to spectrum assigned by auction after 1999; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. BRYAN, Mr. HARKIN, Mr. DURBIN, Mr. FEINGOLD, and Mr. ROBB):

S. 1924. A bill to ensure personal privacy with respect to financial information, to provide customers notice and choice about how their financial institutions share or sell their personally identifiable sensitive financial information, to provide for strong enforcement of these rights, and to protect States' rights; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself, Mr. REID, Mrs. BOXER, and Mr. BRYAN):

S. 1925. A bill to promote environmental restoration around the Lake Tahoe basin; to the Committee on Energy and Natural Resources.

By Mrs. MURRAY:

S. 1926. A bill to amend the Elementary and Secondary Education Act of 1965 to improve student achievement by helping local educational agencies improve the quality of, and technology training for, teachers, to improve teacher accountability, and to enhance the leadership skills of principals; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BREAUX:

S. 1927. A bill to establish the National Recording Registry in the Library of Congress to maintain and preserve recordings that are cultrally, historically, or aesthetically significant, and for other purposes; to the Committee on Rules and Administration.

By Mr. ROTH:

S. 1928. A bill to amend title XVIII of the Social Security Act to establish a medicare subvention demonstration project for veterans, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 1929. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend such Act; to the Committee on Indian Affairs.

By Mr. GRAMS:

S. 1930. A bill to amend the Agricultural Adjustment Act to provide for the termination of milk marketing orders; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 1931. A bill to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes; to the Committee on the Judiciary.

By Mr. JEFFORDS:

S. 1932. A bill to amend the Ricky Ray Hemophilia Relief Fund Act of 1998 to revise and extend certain provisions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THOMPSON:

S. 1933. A bill to amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies; to the Committee on Finance.

By Mr. DODD (for himself and Mr. BENNETT):

S. 1934. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for business-provided student education and training; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1935. A bill to amend title XIX of the Social Security Act to provide for coverage of community attendant services and supports under the Medicaid Program; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 1936. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other National Forest System land in the State of Oregon and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL:

S. 1921. A bill to authorize the placement within the site of the Vietnam Veterans Memorial of a plaque to honor Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service; to the Committee on Energy and Natural Resources.

THE VIETNAM VETERANS RECOGNITION ACT OF 1999

Mr. CAMPBELL. Mr. President, today I am introducing legislation which would create a plaque honoring those Vietnam veterans who died as a result of the war but who are not eligible to have their names placed on the Vietnam Veterans Memorial. The ''Vietnam Veterans Recognition Act of 1999'' would authorize the placement of a plaque within the sight of the Vietnam Veterans Memorial to honor those Vietnam veterans who died after their service in the Vietnam War, but as a direct result of that service. This bill is similar to H.R. 3293, which was introduced by my colleague in the House of Representatives, Congressman GALLEGLY.

Deadly war wounds do not always kill right away. Sometimes these fatal

war wounds may linger on for many years after the fighting is done. Sometimes these wounds are clearly evident from the time they are inflicted, sometimes they are not. The terrible toll that Agent Orange has taken on our Vietnam veterans stands as one stark example. What we do know is that all too often these war wounds eventually take the lives of many of our brave Vietnam veterans.

Even though these veterans may not have been killed in action while they served in the tropical jungles of Vietnam, in the end they too made the ultimate sacrifice for their country. Like their brothers and sisters who died on the field of battle, they too deserve to be duly recognized and honored.

Mr. President, duly honoring the men and women who made the ultimate sacrifice for our country should always be a priority. Unfortunately, the service and sacrifices made by some Vietnam veterans is still not being fully recognized since their names are not included on the Vietnam Veterans Memorial Wall.

This bill recognizes the sacrifices made by these Vietnam veterans by authorizing a plaque that will be engraved with an appropriate inscription honoring these fallen veterans.

Since no federal funds will be used for the plaque, it will be up to our nation's leading veteran's organizations and individual Americans to demonstrate their commitment to honoring these fallen veterans through charitable giving to help make it a reality. The American Battle Monument Commission will lead the effort in collecting the private funds necessary.

It is vital for us to have a place to honor all the men and women who have served and died for their country. It is also important for the families of these fallen heroes to have a place in our nation's capital where their loved one's sacrifice is honored and recognized for future generations.

I urge my colleagues to join me in supporting this important bill. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1921

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Vietnam Veterans Recognition Act of 1999''.

SEC. 2. ADDITION OF A COMMEMORATIVE PLAQUE ON THE SITE OF THE VIETNAM VETERANS MEMORIAL.

Public Law 96-297 (16 U.S.C. 431 note), which authorized the establishment of the Vietnam Veterans Memorial, is amended by adding at the end the following:

''SEC. 5. PLAQUE TO HONOR OTHER VIETNAM VETERANS WHO DIED AS A RESULT OF SERVICE IN THE VIETNAM WAR.

''(a) Plaque Authorized.—The American Battle Monuments Commission is authorized to place within the Vietnam Veterans Memorial a suitable plaque containing an inscription intended to honor Vietnam veterans—

''(1) who died after their service in the Vietnam war, but as a direct result of that service; and

''(2) whose names are not otherwise eligible for placement on the Vietnam Veterans Memorial wall.

''(b) SPECIFICATIONS.—The plaque shall be at least 6 square feet in size and not larger than 18 square feet in size, and of whatever shape as the American American Battle Monuments Commission determines to be appropriate for the site. The plaque shall bear an inscription prepared by the American Battle Monuments Commission.

''(c) RELATION TO COMMEMORATIVE WORKS ACT.—Except as provided in subsection (a), the Commemorative Works Act (40 U.S.C. 1001 et seq.) shall apply to the design and placement of the plaque within the site of the Vietnam Veterans Memorial.

''(d) CONSULTATION.—In designing the plaque, preparing the inscription, and selecting the specific location for the plaque within the Vietnam Veterans Memorial, the American Battle Monuments Commission shall consult with the architects of the Vietnam Veterans Memorial Fund, Inc.

''(e) FUNDS FOR PLAQUE.—Federal funds may not be used to design, procure, or install the plaque.

''(f) VIETNAM VETERANS MEMORIAL DEFINED.—In this section, the term 'Vietnam Veterans Memorial' means the structures and adjacent areas extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue 200 feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting pool walkway). This is the same definition used by the National Park Service as of the date of the enactment of this section, as contained in section 7.96(g)(1)(x) of title 36, Code of Federal Regulations.''.

By Mr. KERREY (for himself and Mr. GRASSLEY):

S. 1922. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for modifications to intercity buses required under the Americans with Disabilities Act of 1990; to the Committee on Finance.

TAX CREDIT FOR MODIFICATIONS TO INTERCITY BUSES REQUIRED UNDER THE AMERICANS WITH DISABILITIES ACT

● Mr. KERREY. Mr. President, today I am introducing legislation to give privately owned, over-the-road bus operators, the assistance they need to equip their buses with wheelchair lifts. These operators provide vital intercity bus services to millions of Americans who have access to no other form of public transportation, most particularly in rural areas. The legislation I am introducing today passed the Senate earlier this year as part of a larger tax bill and enjoyed bipartisan support. Indeed I am delighted that Senator GRASSLEY has agreed to join me as a cosponsor of this bill.

In keeping with the Americans with Disabilities Act, the Department of Transportation (DOT) is requiring that a wheelchair lift be installed on every new over-the-road bus operating intercity bus service. In addition, comparable requirements are being imposed on over the road buses providing charter service. This largely unfunded mandate is estimated to cost the industry $25 million a year in acquisition and training costs alone. In some years, that $25 million figure is expected to exceed the entire profit for the industry.

DOT's new requirement serves the important public purpose of ensuring that disabled persons in wheelchairs will have access to over-the-road buses. Yet the cost of this requirement poses a significant threat to the continuation of this service for millions of rural and low-income Americans. Over-the-road buses serve roughly 4,000 communities that have no other form of intercity public transportation. Additionally, with an average fare of $34, they are the only form of affordable transportation available for millions of passengers.

The legislation we are introducing today provides over-the-road bus operators with a 50-percent tax credit for the unsubsidized costs of complying with the DOT requirement. This tax credit gives them the support that they need to ensure both that disabled people in wheelchairs have access to over-the-road bus service and that that service remains available to the millions of passengers who rely on that service.

I urge my colleagues to join us in supporting this legislation.●

By Mr. BROWNBACK.

S. 1923. A bill to prohibit the Federal Communications Commission from applying spectrum aggregation limits to spectrum assigned by auction after 1999; to the Committee on Commerce, Science, and Transportation.

THE THIRD-GENERATION WIRELESS INTERNET ACT

Mr. BROWNBACK. Mr. President, I rise today to introduce the Third-Generation Wireless Internet Act of 1999, a bill to prevent the FCC from applying the current spectrum cap imposed upon commercial mobile wireless services to new spectrum auctions.

Mr. President, the popularity of wireless services has far exceeded expectations. More people purchase wireless phones every month, and the duration of calls is growing rapidly as per-minute rates decline.

Mr. President, while the popularity of wireless has increased, the Internet has become a mass-market phenomenon. Flat-rate Internet-usage plans have lured millions of Americans online. Broadband services have increased the Internet applications available to consumers and drastically reduced the amount of time necessary to access information online.

Now, we are witnessing the marriage of the wireless and Internet crazes. Wireless Internet access presents consumers with the opportunity to access the Internet anywhere and anytime.

With wireless access, consumers will no longer be dependent upon personal computers to reach the Internet. However, wireless Internet access will only

become a mass-market phenomenon when consumers can obtain wireless broadband services that provide the bandwidth necessary to download information from the Internet on a handheld device at reasonable speeds.

Third-generation wireless services represent the first wave of truly broadband mobile services. Third-generation services should enable wireless users to achieve speeds of up to 384 kilobits per second. But, Mr. President, to ensure the rapid deployment of third-generation services, Congress needs to provide wireless carriers with the ability to purchase additional spectrum at future FCC auctions, which many carriers cannot do under the current FCC policy.

Manufacturers are hesitant to produce equipment for third-generation applications, and wireless carriers are unable to roll out third-generation services, because wireless carriers do not have enough spectrum to offer true third-generation services. Consumers have an opportunity to have wireless high-speed access to the Internet. But until there is regulatory certainty that carriers will be able to obtain the spectrum necessary to offer third-generation services, consumers will have to wait before they can have a mobile on-ramp to the information superhighway.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1923

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Third-Generation Wireless Internet Act.''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Mobile telephony has been one of the fastest growing industries of the telecommunications sector, offering consumers innovative services at affordable rates.

(2) Demand for mobile telecommunications services has greatly exceeded industry expectations.

(3) Mobile carriers are poised to bring high-speed Internet access to consumers through wireless telecommunications devices.

(4) Third Generation mobile systems (hereinafter referred to as ''3G'') are capable of delivering high-speed data services for Internet access and other multimedia applications.

(5) Advanced wireless services such as 3G may be the most efficient and economic way to provide high-speed Internet access to rural areas of the United States.

(6) Under the current Federal Communications Commission rules, commercial mobile service providers may not use more than 45 megahertz of combined cellular, broadband Personal Communications Service, and Specialized Mobile Radio spectrum within any geographic area.

(7) Assignments of additional spectrum may be needed to enable mobile operators to keep pace with the demand for 3G services.

(8) The application of the current Commission spectrum cap rules to new spectrum auctioned by the FCC would greatly impede the deployment of 3G services.

SEC. 3. WIRELESS TELECOMMUNICATIONS SERVICES.

Section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) is amended by adding at the end thereof the following:

''(9) NON-APPLICATION OF SPECTRUM AGGREGATION LIMITS TO NEW AUCTIONS.—

''(A) The Commission may not apply section 20.6(a) of its regulations (47 C.F.R. 20.6(a)) to a license for spectrum assigned by initial auction held for after December 31, 1999.

''(B) The Commission may relax or eliminate the spectrum aggregation limits of section 20.6 of its regulations (47 C.F.R. 20.6), but may not lower these limits.''.

By Mr. LEAHY (for himself, Mr. BRYAN, Mr. HARKIN, Mr. DURBIN, Mr. FEINGOLD, and Mr. ROBB):

S. 1924. A bill to ensure personal privacy with respect to financial information, to provide customers notice and choice about how their financial institutions share or sell their personally identifiable sensitive financial information, to provide for strong enforcement of these rights, and to protect States' rights; to the Committee on Banking, Housing, and Urban Affairs.

THE FINANCIAL INFORMATION PRIVACY AND SECURITY ACT

Mr. LEAHY. Mr. President, I rise today to introduce the Financial Information Privacy and Security Act of 1999. I am pleased that Senators BRYAN, HARKIN, DURBIN, and FEINGOLD are original cosponsors of this legislation to protect the financial privacy of all Americans.

The right of privacy is a personal and fundamental right protected by the Constitution of the United States. But today, the American people are growing more and more concerned over encroachments on their personal privacy.

New technologies, new communications media, and new business services created with the best of intentions and highest of expectations also pose a threat to our ability to keep our lives to ourselves, and to live, work and think without having personal information about us collected without our knowledge or consent.

This incremental invasion of our privacy has happened through the lack of safeguards on personal, financial and medical information, which can be stolen, sold or mishandled and find its way into the wrong hands with the push of a button or click of a mouse.

Our right of privacy has become one of the most vulnerable rights in the information age. The digitalization of information and the explosion in the growth of computing and electronic networking offer tremendous potential benefits to the way Americans live, work, conduct commerce, and interact with their government.

It makes it possible for me, sitting in my farmhouse in Vermont, to connect with any Member of Congress or friends around the world, to get information with the click of a mouse on my computer.

But the new technology also presents new threats to our individual privacy and security, in particular, our ability to control the terms under which our personal information is acquired, disclosed, and used.

Just last week, President Clinton signed into law the landmark Financial Modernization Act of 1999, which updates our financial laws and opens up the financial services industry to become more competitive, both at home and abroad. I supported this legislation because I believe it will benefit businesses and consumers. It will make it easier for banking, securities, and insurance firms to consolidate their services, cut expenses and offer more products at a lower cost to all. But it also raises new concerns about our financial privacy.

New conglomerates in the financial services industry may now offer a widening variety of services, each of which may require a customer to provide financial, medical or other personal information. Nothing in the new law prevents these new subsidiaries or affiliates of financial conglomerates from sharing this information for uses beyond those the customer thought he or she was providing it.

For example, the new law has no requirement for the consumer to consent before these new financial subsidiaries or affiliates sell, share, or publish information on savings account balances, certificates of deposit maturity dates and balances, stock and mutual fund purchases and sales, life insurance payouts or health insurance claims.

That is wrong. You shouldn't be able to have that information and go around to anybody who wants to use it to pitch you some new product or scare you into cashing in life savings or anything else.

As President Clinton recently warned:

> Although consumers put a great value on privacy of their financial records, our laws have not caught up to technological developments that make it possible and potentially profitable for companies to share financial data in new ways. Consumers who undergo physical exams to obtain insurance, for example, should not have to fear the information will be used to lower their credit card limits or deny them mortgages.

I strongly agree. If we had this information in a desk drawer at home, nobody could come in and just take it. Instead, it is in the electronic desk drawer of one of the companies we have given it to, and they can share it with anybody they want within their organization.

Mr. President, the Financial Information Privacy and Security Act of 1999 offers this Congress the historic opportunity to provide fundamental privacy of every American's personal financial information. This bill would protect the privacy of this financial information by directing the Federal Reserve Board, Office of Thrift Supervision, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and the Securities and Exchange Commission jointly to promulgate rules requiring the financial

institutions they regulate to: (1) inform their customers about what information may be disclosed, and under what circumstances, including when, to whom and for what purposes; (2) allow customers to review the information for accuracy; (3) establish safeguards to protect the confidentiality of personally identifiable customer information and records to prevent unauthorized disclosure; and (4) for new customers, obtain the customers' consent to disclosure, and for existing customers, give the customers a reasonable opportunity to object to disclosure. These financial institutions could use confidential customer information from other entities only if the entities provides their customers with similar privacy protections.

In addition, this bill provides individuals the civil right of action to enforce their financial privacy rights and to recover punitive damages, reasonable attorneys fees, and other litigation costs. Privacy rights must be enforceable in a court of law to be truly effective.

To be sure, this legislation would not affect any state law which provides greater financial privacy protections to its citizens. Some states have already recognized the growing need for financial privacy protections. For example, I am proud to say that Vermont instituted cutting edge financial privacy laws five years ago. This bill is intended to provide the most basic rights of financial privacy to all American consumers. They deserve nothing less.

When President Clinton signed the financial modernization bill last week, he directed the National Economic Council to work with the Treasury Department and Office of Management and Budget to craft legislative proposals to forward to Congress next year to protect financial privacy in the new financial services marketplace. I believe the Financial Information Privacy and Security Act of 1999, which we are introducing today, should serve as the foundation for the Administration's financial privacy bill.

Americans ought to be able to enjoy the exciting innovations of this burgeoning information era without losing control over the use of their financial information.

The Financial Information Privacy and Security Act updates United States privacy laws to provide these fundamental protections of personal financial information in the evolving financial services industry.

I urge my colleagues to support it.

On privacy, in Vermont we care greatly about this. I have been in public life for a long time. During that time, I have only clipped and actually saved and framed a couple articles about me from the press.

My distinguished friend from Nevada, who is on the floor, like me lives in a rural area—he in Searchlight, I in Middlesex, VT. I live on this dirt road. I look down this valley, 35 miles down a valley, mountains on either side. I literally cannot see another house from my front yard. It is a beautiful spot, this place my parents got when I was a teenager just for a summer home. Marcelle and I have made a year-round place out of it. There is a neighboring farm family who, for 40 years, have hayed the fields and done work around there. They have known me since I was a teenager. The article I cut from the papers was from one of our largest newspapers. It was a sidebar. Here is almost verbatim the way it went.

The out-of-State reporter drives up to a farmer who is sitting on his porch along the dirt road. He says to the farmer, ''Does Senator LEAHY live up this road?'' The farmer said, ''You a relative of his?'' He said, ''No, I am not.'' He says, ''You a friend of his?'' He said, ''Not really.'' He says, ''Is he expecting you?'' The reporter says, ''No.'' The farmer looks him right in the eye and says, ''Never heard of him.''

Now, we Vermonters like our privacy. This was a Saturday, and the farmer wasn't about to tell somebody where I lived and direct him down the dirt road to it. It is a humorous story, but I kept that over the years because it reminds me of other ways to protect our privacy. By the same token, I would not want—whether it is that reporter or somebody I never met—to go onto a computer and find my bank statements, my medical records, my children's medical records, or my spouse's, and find out whether we have applied for a mortgage or not, or find out whether we have bought life insurance or cashed in life insurance. So I think we have to ask ourselves as we go into the new millennium, one where information will flow quicker and in more detail than could have even been conceived a generation ago—it could not have been conceived at the time my parents purchased that beautiful spot in Vermont. Ten years from now, we will move faster and with more complexity than we could even think of today.

So I think the Congress, if it is going to fulfill its responsibility to the American people, has to do more and more to protect our privacy and allow technology to move as fast as it can, but not at the price of our individual privacy. We all know basically what we, our friends, neighbors, families, would want to give up of their personal privacy—not very much. Think to yourself, if this was something you had in the top drawer of your desk at home, knowing nobody could get it, they would need search warrants or they would break the law by coming in and taking it. That is all the more reason why on somebody's computer they should not be allowed to take it.

By Mrs. FEINSTEIN (for herself, Mr. REID, Mrs. BOXER, and Mr. BRYAN):

S. 1925. A bill to promote environmental restoration around the Lake Tahoe basin; to the Committee on Energy and Natural Resources.

THE LAKE TAHOE RESTORATION ACT

Mrs. FEINSTEIN. Mr. President, in June, joined by Senators REID, BOXER, and BRYAN, I introduced the Lake Tahoe Restoration Act (S. 1192) which would jump start the process of cleaning up Lake Tahoe.

Lake Tahoe, one of the largest, deepest, clearest lakes in the world is in the midst of an economic crisis. Water clarity is declining at the rate of more than 1 foot each year; more than ⅓ of the trees in the forest are either dead or dying; and sediment and algae-nourishing phosphorus and nitrogen continue to flow into the lake from a variety of sources.

Over the last few months, I worked with the Congressmen from the Tahoe areas, Representative DOOLITTLE and Representative GIBBONS to craft a House version of the Lake Tahoe Restoration Act that could garner bipartisan support. I am pleased that we've been able to build on S. 1192 and develop a compromise bill which I am introducing today.

Like S. 1192, this bill first and foremost authorizes the necessary funding to clean up and restore Lake Tahoe. This bill includes two major changes:

First, to address the problem of MTBE in the Lake Tahoe basin, I added a section that provides $1 million to the Tahoe Regional Planning Agency and local utility districts to clean up contaminated wells and surface water.

Second, to help local governments who would otherwise be burdened by relocation costs that may be needed to clean up the basin, this bill promises that the federal government will pay ⅔ of any needed relocation costs.

I believe these provisions improve on the original bill and increase the breadth of support for this bill.

The bill requires the Forest Service to develop an annual priority list of environmental restoration projects and authorizes $200 million dollars over 10 years to the forest service to implement these projects on federal lands. The list must include projects that will improve water quality, forest health, soil conservation, air quality, and fish and wildlife habitat around the lake.

In developing the environmental restoration priority list, the Forest Service must rely on the best available science, and consider projects that local governments, businesses, and environmental groups have targeted as top priorities. The Forest Service also must consult with local community leaders.

The bill requires the Forest Service to give special attention on its priority list to five key activities: acquisition of environmentally sensitive land from willing sellers, erosion and sediment control, fire risk reduction, cleaning up MTBE contamination, and traffic and parking management, including promotion of public transportation.

The Lake Tahoe Restoration Act also requires that an additional $100 million be authorized over 10 years be as payments to local governments for erosion

control activities on non-federal lands. These payments will help local governments conduct soil conservation and erosion mitigation projects, restore wetlands and stream environmental zones, and plant native vegetation to filter out sediment and debris.

I spent my childhood at Lake Tahoe, but I had not been back for a number of years until I returned for the 1997 Presidential summit with President Clinton. I saw things I had never seen before at Lake Tahoe.

I saw the penetration of MTBE in the water and learned that 30 percent of the South Lake Tahoe water supply has been eliminated by MTBE. I observed gasoline spread over the water surface. I noticed that a third of the magnificent forest that surrounds the lake was dead or dying. I saw major land erosion problems that were bringing all kinds of sediment into the lake and which had effectively cut the lake's clarity by thirty feet since the last time I had visited. And then I learned that the experts believe that in 10 years the clouding of the amazing crystal water clarity would be impossible to reverse and in 30 years it would be lost forever.

The Tahoe Regional Planning Agency estimates that it will cost $900 million over the next 10 years to restore the Lake.

For me, that was a call to action and prompted me to sponsor this bill which will authorize $300 million of Federal moneys on a matching basis over 10 years for environmental restoration projects at Lake Tahoe to preserve the region's water quality and forest health. Put simply, this crown jewel deserves the attention, and the fact that the federal government owns 77 percent of that troubled area makes the responsibility all so clear.

Through funding over the past few years we have already begun to make some early strides such as the purchase of important pieces of land like the Sunset Ranch and the planning for a Coordinated Transit System.

Already, California and Nevada have begun contributing their portion of the restoration efforts.

California is in the second year of a ten year $275 million commitment through the California Tahoe Conservancy, Caltrans, and the Parks Service.

Nevada has authorized the issuance of bonds that will constitute an $82 million contribution over an 8-year period.

Local governments and private industry have also agreed to commit $300 million. The Tahoe Transportation and Water Quality Coalition, a coalition of 18 businesses and environmental groups, including Placer County, El Dorado County, the city of South Lake Tahoe, Douglass County in Nevada, and Washoe County in Nevada have all agreed. This is an extraordinary commitment for a region with only 50,000 year-round residents.

President Clinton took an important first step in 1997 when he held an environmental summit at Lake Tahoe and promised $50 million over 2 years for restoration activities around the lake. Unfortunately, the President's commitments lasted for only 2 years, so important areas like land acquisition and road decommissioning were not funded at the levels the President tried to accomplish. What is needed is a more sustained, long-term effort, and one that will meet the federal government's $300 million responsibility to save the environment at Lake Tahoe.

The Lake Tahoe Restoration Act will build upon the President's commitment to Lake Tahoe and authorize full funding for a new environmental restoration program at the lake.

I am also grateful to the Lake Tahoe Transportation and Water Quality Coalition, a local consensus group of 18 businesses and environmental groups, who has worked extremely hard on this bill.

Thanks in large part to their work, the bill has strong, bipartisan support from nearly every major group in the Tahoe Basin.

The bottom line is that time is running out for Lake Tahoe. We have 10 years to do something major or the water quality deterioration is irreversible.

I am hopeful that Congress will move quickly to consider the Lake Tahoe Restoration Act. I urge my colleagues to join Senator REID, Senator BOXER, Senator BRYAN, Congressman DOOLITTLE, Congressman GIBBONS, Congresswoman ESHOO, and me in preserving this national treasure for generations to come.

By Mrs. MURRAY:

S. 1926. A bill to amend the Elementary and Secondary Education Act of 1965 to improve student achievement by helping local educational agencies improve the quality of, and technology training for, teachers, to improve teacher accountability, and to enhance the leadership skills of principals; to the Committee on Health, Education, Labor, and Pensions.

QUALITY AND ACCOUNTABILITY ARE BEST FOR CHILDREN ACT (QUALITY ABCS ACT)

● Mrs. MURRAY. Mr. President, today I introduce a bill entitled the ''Quality and Accountability Are Best for Children Act.'' Every child in every classroom in America deserves to have a fully-qualified teacher; this legislation takes a comprehensive approach to helping communities make that a reality. The bill should be seen as complementary to the professional development sections of last year's Higher Education Act, and to the professional development sections of S. 7, the Public Schools Excellence Act. It should also be seen as part of a comprehensive strategy to forge a strong partnership on education between the Congress and the teachers, families, and students in communities across America which it serves.

While my efforts today are to address educator quality issues, I also recently introduced S. 1773, the Youth and Adult School Partnership Act of 1999, and S. 1772, the Family and School Partnership Act of 1999. In addition, I have been working for some time to pass S. 1304, the Time for Schools Act. All these efforts work in concert, to address the very real needs of our local schools when it comes to investing in the strategies that work, and in making it possible to involve all the necessary members of our local school communities in the decisions that affect them.

I have spoken before about what I have heard from the literally thousands of families and students and educators and community leaders I have met. I have spoken about how most Americans want an increased but appropriate federal role in education. They want decisions about how to help students achieve at higher levels to be made in the local school, but they also want increased federal funds—help where help is needed—to support their local efforts. Most people are shocked to learn that their federal government only devotes 1.6 percent of overall spending to education.

I have spoken before about how the federal class size reduction initiative has at its core a streamlined funding mechanism that targets funds to a goal and then holds the school accountable to the local community for making progress toward that goal. I have talked about how important I feel this funding mechanism can be as a way for us to look at other federal programs in education. I have spoken about the importance of keeping the federal role firmly in mind: to ensure opportunity on the one hand, and to fund shared national priorities on the other. In addition, we must ensure accountability for results at every step along the way.

We need to remember that what families and students and educators and community leaders have asked us for is targeted help and support, to fund such efforts as reducing class size, and providing for special education students, and after-school programs, and school modernization, and education technology, and school safety and other efforts. Our responsibility is to give them the help they have sought, and no topic is more important to them than funding the necessary steps it will take to help local schools improve the quality of their corps of educators. We must rethink how educators are taught, and how we support their learning of the new skills it takes to teach students the basics and ''new basics'' that it will take for them to succeed in today's complex world.

In addition, we must fund local schools' efforts to recruit, retain and reward the world's finest corps of educators. And assure that their local communities can hold them accountable for doing so.

Today I introduce the Quality and Accountability are Best for Children Act, or Quality ABCs Act. This bill will help school districts improve the quality of their educator corps, and help

communities hold schools accountable for results. Since all communities are struggling to improve the quality of their teaching force, funds are provided at a level that allow all school districts to participate. It will authorize an additional formula grant, based on enrollment, in the amount of $2 billion per year for teacher quality improvement, plus $100 million per year for principal professional development. Funds will supplement current federal, state, and local professional development efforts, and school districts are encouraged to use existing law, waivers, of Ed Flex authority to coordinate activities at the local level.

With the goal of reducing paperwork and avoiding lengthy program descriptions, my legislation is based on the bipartisan mechanism agreed to under the fiscal year 1999 Appropriations Class Size Reduction Initiative. Applications are streamlined, school districts can use money flexibly at the local level, as long as they target funds to improving educator quality in at least one of three subject areas (recruitment, retention, and rewards) and school districts are accountable to the local community in the form of a report card describing district efforts to improve teacher quality.

School district are required to use funds to improve educator quality, but have a broad range of options to do so.

To recruit new teachers, school districts may use tools such as the following:

Establishing or expanding teacher academies, teachers-recruiting-future-teacher programs, and programs to encourage high school and middle school students to pursue a career in teaching;

Establishing or expanding para-professional training programs, para-educator-to-teacher career ladders or other efforts to improve the training and supervision of para-educators;

Establishing or expanding programs for mid-career professionals to become certificated teachers;

Reaching out to communities of color or other special populations to make the teaching corps more reflective of current and future student demographics:

Placing advertisements, attending college job fairs, offering signing bonuses, and other recruitment efforts;

Embarking on and coordinating with other activities to help recruit the best quality teaching corps, such as: offering forgivable loans; assisting new hires to reach higher levels of state certification or to become national board certified teachers; recruiting new teachers in specific disciplines including math and science;

In addition, the Secretary of Education will be authorized directly, or by creating programs at the state or local level to:

Offer incentives for teachers to achieve national board certification;

Create forgivable loan programs under the current student aid programs;

Report on successful efforts and take part in dissemination activities;

Provide technical assistance to states and school districts to assist them to use technology in recruitment, processing, hiring, and placement of qualified teaching candidates.

To retain teachers, school districts may:

Use funds to offer or stipends or bonuses to educators to seek further subject matter endorsements, advanced levels of state certification or national board certification. These retention efforts can also fund other local initiatives specifically designed, such as mentor teacher programs, to retain teachers in the first 5 years of teaching;

Local education agencies can use funds, within district criteria for mentor or master teacher criteria, for a range of retention activities: mentor and/or master teacher job classification/career ladders; sabbatical/research activities such as the Fulbright program, or working in industry/non-profit world to improve teacher education; or other activities that keep teachers fresh while preserving their job slot/pay/benefits. These retention efforts can also fund other local initiatives specifically designed to retain experienced teachers, beyond the first five years of teaching;

To reward teachers:

School districts can reward elementary and secondary schools, based on improvement in the proportion of highly qualified teachers or other measures of teacher quality—improved recruiting, retention, improved ''in endorsement'' ratio, higher percentage of certificated staff, higher levels of certification, professional development curricular improvement;

School districts can provide teachers with a one-time bonus/reward of $5,000 for achieving national board certification;

Each state will receive $100,000 to support the McAuliffe awards and National Teacher of the year awards to create additional forms of conferring respect and recognition upon distinguished educators.

The bill requires school district report cards to contain information about efforts they have undertaken to improve the recruiting, retention, rewarding, and accountability for teachers. Reports include which programs were offered locally, how much of the funding was spent on which efforts, and what results were achieved in terms of measurable improvements to teacher quality and student achievement.

Each report card shall include information about how parents and other community members can access processes under school district policies regarding teacher accountability.

The bill includes an effort to provide, on a statewide basis, professional development services for public elementary school and secondary school principals designed to enhance the principals' educational leadership skills.

The programs will provide principals with:

Knowledge of effective instructional leadership skills and practices;

Comprehensive whole-school approaches and programs that improve teaching and learning;

Improved understanding of the effective uses of educational technology, including best practices for incorporating technology into the instructional program and management of the school;

Increased knowledge of State content and performance standards, and appropriate related curriculum;

Assistance in the development of effective programs, and strategies for assessing the effectiveness of such programs;

Training in effective, fair evaluation and supervision of school staff, and training in improvement of instruction;

Assistance in the enhancement and development of the principals' overall school management and business skills;

Knowledge of school safety and discipline practices, school law, and school funding issues.

The bill also includes the K–12 school sections of my teacher Technology Training Act. Last year, I included in the Higher Education Act provisions to improve pre-service teacher training offered by universities, by including technology in teacher training. The Quality ABCs Act will take the relevant steps to integrate technology into the professional development offered by school districts.

This bill is only one step but it is a necessary one. We cannot succeed in improving student learning if we do not also invest in the quality of our educators. We must assure that schools can use all the tools at their disposal to do what's necessary, and the Quality ABCs Act funds the recruitment, retention, rewards and accountability measures essential to their success.

In all these pieces of legislation, whether I am a sponsor or a cosponsor, my approach is to offer help where help is needed. Schools face increasing challenges and higher expectations from their communities and from all Americans.

Now is not the time for easy answers. Too many have suggested that it's all about paperwork or all about trust or all about bureaucracy. We must take steps to squeeze the most out of every dollar, and make things more efficient, but, as we've seen with the funding mechanism under the class size reduction initiative, local flexibility, targeted to a specific purpose, with local accountability built in, can work very well.

But even that approach is only a partial answer. Helping all our schools perform for all students now and into the next century is a monumental task. None of these challenges is easy. The kind of student success we are hoping for will not happen without an actual, working partnership among local

schools and school districts, state and regional education agencies, and the federal government. The success will not happen without a partnership between educators and families and young people and community leaders.

No person, school, or government entity has the resources, the research, the leadership, the experience, or the capability to go it alone. People cannot succeed in a global economy without an education that is world-class, relevant, and sufficiently funded. We all must work together as a nation if we want to succeed as a nation in a complex world. We owe this kind of perspective to our children and to our future. We must all strive to find the areas where we agree. Only a shared vision of the future of education will help us all to move toward our destination. Let us take that first step together.

Mr. President, the drafting of these bills would have been impossible without the efforts of two legislative fe3llows in my office, Ann Mary Ifekwunigwe and Peter Hatch. I thank them for their work.

Mr. President, I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Quality and Accountability are Best for Children Act''.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Academically qualified, highly trained and professional teachers are a critical component in children's educational success.

(2) The Department of Education has reported that our Nation will need to hire 2,200,000 more teachers during the 10-year period beginning in fiscal year 2000.

(3) Newspaper accounts from the 18th century described teachers as well-respected, but ill-rewarded.

(4) In 1999, because many individuals view teaching as a thankless profession which garners little respect, little support, and little money, nearly 50 percent of those who enter teaching leave the profession within 5 years.

(5) Sixty-three percent of parents and teachers believe that accountability systems with financial rewards are a good idea, and would motivate teachers to work harder to improve student achievement.

(6) Paying professional salaries is integral to teacher retention. The State of Connecticut, for example, has been able to improve student achievement, eliminate its teacher shortage, and retain highly qualified teachers by offering the highest salaries in the Nation (an average of $51,727 per year).

(7) Dissemination of information regarding the teacher corps working at individual elementary schools and secondary schools, and accountability procedures enforced by the local educational agency can provide an important tool for parents and taxpayers to measure the quality of the elementary schools or secondary schools and to hold the schools and teachers accountable for improving student performance.

(8) Although elementary school and secondary school teachers need the most up-to-date skills possible to ensure that students are equipped to deal with a complex economy and society, less than 50 percent of such teachers report that they are competent in using technology effectively in the classroom.

(9) Although principals and other administrators are the educational leaders and chief executive officers of our Nation's elementary schools and secondary schools, and research strongly suggests that strong leadership from the principal is the single most important factor in effective schools, research also has revealed that the characteristics of a good principal are not necessarily those things for which principals are trained and rewarded.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to recruit the best and the brightest candidates to teach in public elementary schools and secondary schools by looking to young people, people from special populations, mid-career professionals, and others as potential new teachers;

(2) to offer retention incentives to highly qualified teachers to keep the teachers in the classroom;

(3) to reward elementary schools and secondary schools that, and teachers in such schools who, succeed in improving student achievement;

(4) to hold elementary school and secondary school teachers accountable for achieving high levels of professionalism, including possessing expert knowledge and skills in the subject areas in which the teachers teach, being actively involved in all aspects of the school community, and being committed to the academic success of students, by providing parents and the school community with specific information about the qualifications of the local teaching corps;

(5) to improve teacher professional development in the uses of technology in teaching and learning and in the study of technology, and to help local communities to use technology as a vehicle to improve teacher professional development; and

(6) to improve the professional development of elementary school and secondary school principals and other administrators to ensure that the principals and administrators are the community's educational leaders, and have sophisticated knowledge about student achievement, school safety, management, evaluation, and community outreach.

SEC. 5. IMPROVING TEACHER RECRUITMENT, RETENTION, REWARDS, AND ACCOUNTABILITY.

Title II (20 U.S.C. 6601 et seq.) is amended—

(1) by redesignating part E as part G;

(2) by redesignating sections 2401 and 2402 (20 U.S.C. 6701, 6702) as sections 2601 and 2602, respectively; and

(3) by inserting after part D the following:

''PART E—IMPROVING TEACHER RECRUITMENT, RETENTION, REWARDS, AND ACCOUNTABILITY;

''SEC. 2401. DEFINITIONS.

''For purposes of this part:

''(1) OUTLYING AREAS.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(2) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 2402. PROGRAM AUTHORIZED.

''(a) GRANTS AUTHORIZED.—The Secretary shall award a grant, from allotments under subsection (b), to each State to enable the State to provide grants to local educational agencies to carry out activities consistent with section 2404.

''(b) RESERVATIONS AND ALLOTMENTS.—

''(1) RESERVATIONS.—From the amount appropriated under section 2406 to carry out this part for each fiscal year, the Secretary shall reserve—

''(A) a total of 1 percent of such amount for payments to—

''(i) the Secretary of the Interior for activities, that are approved by the Secretary and consistent with this part, in schools operated or supported by the Bureau of Indian Affairs, on the basis of the schools' respective needs for assistance under this part; and

''(ii) the outlying areas, to be allotted in accordance with their respective needs for assistance under this part as determined by the Secretary, for activities that are approved by the Secretary and consistent with this part; and

''(B) 0.5 percent to enable the Secretary directly or through programs with State educational agencies and local educational agencies—

''(i) to offer incentives to teachers to obtain certification from the National Board for Professional Teaching Standards;

''(ii) to create student loan forgiveness programs;

''(iii) to report on and disseminate successful activities assisted under this part; and

''(iv) to provide technical assistance to States and local educational agencies to assist the States and agencies in using technology in the recruitment, processing, hiring, and placement of qualified teaching candidates.

''(2) ALLOTMENTS TO STATES.—From the amount appropriated under section 2406 for any fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State an amount that bears the same relationship to the remainder as the number of children, aged 5 to 17, enrolled in the public and private nonprofit elementary schools and secondary schools in the State bears to the number of such children enrolled in such schools in all States.

''(c) WITHIN-STATE ALLOCATIONS.—Each State receiving an allotment under subsection (b)(2)—

''(1) shall reserve $100,000 of the allotment for a fiscal year—

''(A) to support the Christa McAuliffe awards, the National Teacher of the Year awards, and other awards that confer respect and recognition upon outstanding teachers; and

''(B) to establish other forms of conferring respect and recognition upon distinguished teachers;

''(2) shall reserve not more than ½ of 1 percent of the grant funds for a fiscal year, or $50,000, whichever is greater, for the administrative costs of carrying out this part; and

''(3) shall allocate the amount that remains after reserving funds under paragraphs (1) and (2) among local educational agencies in the State by allocating to each local educational agency in the State submitting an application that is consistent with section 2403 an amount that bears the same relationship to the remainder as the number of children, aged 5 to 17, enrolled in the public and private nonprofit elementary schools and secondary schools served by the local educational agency bears to the number of such children enrolled in such schools served by all local educational agencies in the State.

"SEC. 2403. LOCAL APPLICATIONS.

Each local educational agency desiring assistance under section 2402(c)(3) shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require. At a minimum, the application shall contain a description of the programs to be assisted under this part consistent with section 2404.

"SEC. 2404. USE OF FUNDS.

''(a) IN GENERAL.—Each local educational agency receiving funds under this part shall use the funds to carry out activities described in subsections (b) and (c) that are designed to improve student achievement by improving the quality of the local teacher corps, including improving recruitment and retention of highly qualified new teachers, offering rewards to teachers based on teachers' successes, and holding teachers accountable for the results attained by the teachers by notifying the community in the school district served by the local educational agency about the local educational agency's efforts to improve teacher quality.

''(b) RECRUITMENT, RETENTION, AND REWARDS.—

''(1) TEACHER RECRUITMENT.—A local educational agency may support teacher recruitment activities by—

''(A) establishing or expanding teacher academies, teachers-recruiting-future-teachers programs, and programs designed to encourage secondary school students to pursue a career in teaching;

''(B) establishing or expanding paraprofessional training programs, paraprofessional-to-teacher career ladders, and other programs designed to improve the training and supervision of paraprofessionals;

''(C) establishing or expanding programs designed to assist mid-career professionals to become certificated teachers;

''(D) reaching out to communities of color or other special populations to make teachers teaching in the elementary schools and secondary schools served by the local educational agency more reflective of the student demographics (at the time of the outreach and as anticipated in the future) in such schools;

''(E) placing advertisements, attending college job fairs, offering signing bonuses, or engaging in other efforts designed to recruit highly qualified new teachers; and

''(F) establishing activities, and coordinating with existing activities, designed to help recruit the highest quality new teachers, such as—

''(i) offering student loan forgiveness;

''(ii) offering assistance for newly hired teachers to reach higher levels of State certification or certification from the National Board for Professional Teaching Standards; and

''(iii) recruiting new teachers in specific disciplines, including mathematics and science.

''(2) TEACHER RETENTION.—A local educational agency may support teacher retention activities by—

''(A) offering stipends or bonuses to teachers who seek further subject matter endorsements and advanced levels of State certification or certification from the National Board for Professional Teaching Standards;

''(B) establishing or expanding local initiatives, such as mentor teacher programs, that are specifically designed to retain teachers during the teachers' first 5 years of teaching;

''(C) supporting other teacher retention activities that are consistent with local educational agency criteria for mentor teacher job classifications or master teacher job classifications, including—

''(i) establishing such classifications;

''(ii) establishing career ladders for mentor teachers or master teachers; and

''(iii) providing teachers with time outside the classroom to improve the teachers' teaching skills while preserving the teachers' job, pay, and benefits, including providing sabbaticals, research opportunities, such as the Fulbright Academic Exchange Programs, and the opportunity to work in an industry or a not-for-profit organization; and

''(D) supporting local initiatives specifically designed to retain experienced teachers beyond the teacher's first 5 years of teaching.

''(3) REWARDS.—A local educational agency may reward—

(A) elementary schools and secondary schools by providing bonuses or financial awards to the schools, with priority given to financially needy schools, based on—

''(i) the school's increased percentage of highly qualified teachers teaching in the school; or

''(ii) other measures demonstrating an improvement in the quality of teachers teaching in the school, including an improvement in the school's recruitment and retention of teachers, a reduction in out-of-field placement of teachers, an increased percentage of certificated staff teaching in the school, an increase in the number of teachers in the school attaining higher levels of certification, and a school's adoption of professional development programs that improve curricula; and

''(B) highly qualified elementary school and secondary school teachers by offering a 1-time bonus, reward, or stipend of not more than $5,000 to teachers who are certified by the National Board for Professional Teaching Standards.

''(c) ACCOUNTABILITY.—An elementary school or secondary school receiving assistance under this part, and the local educational agency serving that school, shall provide an annual report to parents, the general public, and the State educational agency, in easily understandable language, containing—

(1) information regarding—

''(A) the demographic makeup and professional credentials of the agency's teacher corps;

''(B) efforts to increase student achievement by improving the recruitment, retention, and rewarding of teachers, and improving accountability for teachers; and

''(C) local programs assisted, expenditures made, and results achieved under this part in terms of measurable improvements in teacher quality and student achievement; and

''(2) notification of the community served by the local educational agency with respect to local educational agency policies regarding teacher accountability.

"SEC. 2405. GENERAL PROVISIONS.

''(a) SUPPLEMENT NOT SUPPLANT.—A local educational agency shall use funds under this part to supplement, and not to supplant, State and local funds that, in the absence of funds provided under this part, would otherwise be spent for activities under this part.

''(b) PROHIBITION.—No local educational agency shall use funds provided under this part to increase the salaries of or to provide benefits to teachers, other than providing professional development programs, bonuses, and enrichment programs described in section 2404.

''(c) PROFESSIONAL DEVELOPMENT.—If a local educational agency uses funds made available under this part for professional development activities, the local educational agency shall ensure the equitable participation of private nonprofit elementary schools and secondary schools in such activities.

''(d) COORDINATION.—A local educational agency shall coordinate any professional development activities carried out under this part with activities carried out under title II of the Higher Education Act of 1965, if the local educational agency is participating in programs funded under such title.

''(e) ADMINISTRATIVE EXPENSES.—A local educational agency receiving grant funds under this part may use not more than 3 percent of the grant funds for any fiscal year for the cost of administering this part.

''(f) REPORT.—Each State receiving funds under this part shall submit an annual report to the Secretary containing information regarding activities assisted under this part.

"SEC. 2406. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated $2,100,000,000 for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART F—EXCELLENT PRINCIPALS CHALLENGE GRANT

"SEC. 2501. GRANTS TO STATES FOR THE TRAINING OF ELEMENTARY SCHOOL AND SECONDARY SCHOOL PRINCIPALS.

''(a) GRANTS AUTHORIZED.—From amounts appropriated under section 2504, the Secretary shall award grants to State educational agencies or consortia of State educational agencies that submit applications consistent with subsection (d), to enable such agencies or consortia to provide, on a statewide basis, professional development services for elementary school and secondary school principals designed to enhance the principals' leadership skills.

''(b) RESERVATIONS AND AWARDS.—

''(1) RESERVATIONS.—From the amount appropriated under section 2503 to carry out this part for each fiscal year, the Secretary may reserve not more than 2 percent to develop model national programs, in accordance with section 2502, that provide activities described in subsection (e) for elementary school and secondary school principals.

''(2) AWARDS TO STATES.—From the amount appropriated under section 2504 for a fiscal year and remaining after the Secretary makes the reservation under paragraph (1), the Secretary shall award grants, in an amount determined by the Secretary, to State educational agencies and consortia of State educational agencies on the basis of—

''(A) the quality of the proposed uses of the grant funds; and

''(B) the educational needs of the State or States.

''(c) MATCHING REQUIREMENT.—

''(1) IN GENERAL.—The amount provided to a State educational agency or consortia under subsection (b)(2) shall not exceed 75 percent of the cost of the program described in the application submitted pursuant to subsection (d).

''(2) NON-FEDERAL CONTRIBUTIONS.—The non-Federal share of payments under this section may be in cash or in kind, fairly evaluated, including planned equipment or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of the non-Federal share.

''(3) WAIVER.—The Secretary shall promulgate regulations to waive the matching requirement of paragraph (1) with respect to State educational agencies or consortia of State educational agencies that the Secretary determines serve low-income areas.

''(d) APPLICATION REQUIRED.—Each State educational agency or consortia of State educational agencies desiring a grant under subsection (b)(2) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall reasonably require. At a minimum, the application shall contain—

''(1) a description of the activities to be assisted under this section consistent with subsection (e); and

''(2) an assurance that—

''(A) matching funds will be provided in accordance with subsection (c); and

''(B) elementary school and secondary school principals in the State were involved in developing the application and the proposed uses of grant funds.

''(e) USE OF FUNDS.—A State educational agency or consortia of State educational agencies receiving a grant under this part shall use the grant funds to provide, on a statewide basis, professional development services and training to increase the instructional leadership and other skills of principals in elementary schools and secondary schools. Such activities may include activities—

''(1) to provide principals with knowledge of—

''(A) effective instructional leadership skills and practices; and

''(B) comprehensive whole-school approaches and programs that improve teaching and learning;

''(2) to provide training in effective, fair evaluation and supervision of school staff, and to provide training in improvement of instruction; and

''(3) to improve understanding of the effective uses of educational technology, and to incorporate technology into the instructional program and the operation and management of the school;

''(4) to improve knowledge of State content and performance standards and appropriate related curriculum;

''(5) to improve the development of effective programs, the assessment of program effectiveness, and other related programs;

''(6) to enhance and develop school management and business skills;

''(7) to improve training in school safety and discipline;

''(8) to improve training in school finance, grant-writing and fund-raising; and

''(9) to improve training regarding school legal requirements.

''(f) DEFINITION.—For purposes of this section, the term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''SEC. 2502. MODEL NATIONAL PROGRAMS.

''(a) IN GENERAL.—From the amounts reserved under section 2501(b)(1), the Secretary, in consultation with the Commission described in subsection (b), shall develop model national programs to provide activities described in section 2501(e) for elementary school and secondary school principals.

''(b) COMMISSION.—

''(1) IN GENERAL.—The Secretary shall appoint a Commission—

''(A) to examine existing professional development programs for elementary school and secondary school principals; and

''(B) to provide, not later than 1 year after the date of enactment of the Quality and Accountability are Best for Children Act, a report regarding the best practices to help elementary school and secondary school principals in multiple education environments across our Nation.

''(2) MEMBERSHIP.—The Commission shall consist of representatives of local educational agencies, State educational agencies, departments of education within institutions of higher education, elementary school and secondary school principals, education organizations, community and business groups, and labor organizations.

''SEC. 2503. GENERAL PROVISIONS.

''(a) SUPPLEMENT NOT SUPPLANT.—A State educational agency or consortium of State educational agencies shall use funds under this part to supplement, and not to supplant, State and local funds that, in the absence of funds provided under this part, would otherwise be spent for activities under this part.

''(b) PROFESSIONAL DEVELOPMENT.—If a State educational agency or consortium of State educational agencies uses funds made available under this part for professional development activities, the State educational agency or consortium of State educational agencies shall ensure the equitable participation of private nonprofit elementary schools and secondary schools in such activities.

''SEC. 2504. AUTHORIZATION OF APPROPRIATIONS; SUPPLEMENT NOT SUPPLANT.

''For the purpose of carrying out this part, there are authorized to be appropriated, $100,000,000 for each of the fiscal years 2001 through 2004 to carry out this part.

SEC. 6. AMENDMENTS REGARDING IMPROVING TEACHER TECHNOLOGY TRAINING.

(a) STATEMENT OF PURPOSE FOR TITLE I.—Section 1001(d)(4) (20 U.S.C. 6301(d)(4)) is amended by inserting '', giving particular attention to the role technology can play in professional development and improved teaching and learning'' before the semicolon.

(b) SCHOOL IMPROVEMENT.—Section 1116(c)(3) (20 U.S.C. 6317(c)(3)) is amended by adding at the end the following:

''(D) In carrying out professional development under this paragraph an elementary school or secondary school shall give particular attention to professional development that incorporates technology used to improve teaching and learning.''.

(c) PROFESSIONAL DEVELOPMENT.—Section 1119(b) (20 U.S.C. 6320(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking ''and'' after the semicolon;

(B) in subparagraph (E), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(F) include instruction in the use of technology.''; and

(2) in paragraph (2)—

(A) by striking subparagraph (D); and

(B) by redesignating subparagraphs (E) through (I) as subparagraphs (D) through (H), respectively.

(d) PURPOSES FOR TITLE II.—Section 2002(2) (20 U.S.C. 6602(2)) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) in subparagraph (F), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(G) uses technology to enhance the teaching and learning process.''.

(e) NATIONAL TEACHER TRAINING PROJECT.—Section 2103(b)(2) (20 U.S.C. 6623(b)(2)) is amended by adding at the end the following:

''(J) Technology.''.

(f) LOCAL PLAN FOR IMPROVING TEACHING AND LEARNING.—Section 2208(d)(1)(F) (20 U.S.C. 6648(d)(1)(F)) is amended by inserting '', technologies,'' after ''strategies''.

(g) AUTHORIZED ACTIVITIES.—Section 2210(b)(2)(C) (20 U.S.C. 6650(b)(2)(C)) is amended by inserting '', and in particular technology,'' after ''practices''.

(h) HIGHER EDUCATION ACTIVITIES.—Section 2211(a)(1)(C) (20 U.S.C. 6651(a)(1)(C)) is amended by inserting '', including technological innovation,'' after ''innovation''.●

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 1929. A bill to amend the Native Hawaiian Health Care Improvement Act to revise and extend such Act; to the Committee on Indian Affairs.

NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT REAUTHORIZATION OF 1999

Mr. INOUYE. Mr. President, I rise today to introduce a bill to reauthorize and extend the provisions of the Native Hawaiian Health Care Act. I am joined in the sponsorship of this measure by my esteemed colleague, Senator DANIEL AKAKA.

Although the act was enacted into law in 1988, appropriations to implement these critically-needed health care programs and services were not forthcoming for several years. As a result, the Native Hawaiian Health care Systems are still struggling to address the overwhelming need for health care services that are designed to improve the health status of the native people of Hawaii.

Native Hawaiians have the highest cancer mortality rates in the State of Hawaii, as well as the highest years of productive life lost from cancer. Native Hawaiians also have the highest mortality rates in the State of Hawaii from diabetes mellitus—130 percent higher than the statewide rate for all other races. The death rate from heart disease is 66 percent higher amongst Native Hawaiians than for the entire State of Hawaii. The Native Hawaiian mortality rate associated with hypertension is 84 percent higher than that for the rest of the State. These are just a few of the health status indicators at which the health care programs and services authorized by the Native Hawaiian Health Care Improvement Act are targeted.

Through the training of Native Hawaiian health care professionals, and the assignment of physicians, nurses, allied health professionals, and traditional healers to serve the needs of the Native Hawaiian community, we anticipate that the objectives established by the Surgeon General—the Healthy People 2010 goals—as well as kanaka maoli health objectives—will be attained. But to do so will require a sustained effort and a continuity of authorization and support for health care services provided to our most needy population.

Mr. President, I ask unanimous consent that the text of this measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native Hawaiian Health Care Improvement Act Reauthorization of 1999''.

SEC. 2. AMENDMENT TO THE NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT.

The Native Hawaiian Health Care Improvement Act (42 U.S.C. 11701 et seq.) is amended to read as follows:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Native Hawaiian Health Care Improvement Act'.

''(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

''SEC. 2. FINDINGS.

''(a) GENERAL FINDINGS.—Congress makes the following findings:

''(1) Native Hawaiians begin their story with the Kumulipo which details the creation and inter-relationship of all things, including their evolvement as healthy and well people.

''(2) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago and have a distinct society organized almost 2,000 years ago.

''(3) Native Hawaiians have never directly relinquished to the United States their claims to their inherent sovereignty as a people or over their national lands, either through their monarchy or through a plebiscite or referendum.

''(4) The health and well-being of Native Hawaiians are intrinsically tied to their deep feelings and attachment to their lands and seas.

''(5) The long-range economic and social changes in Hawaii over the 19th and early 20th centuries have been devastating to the health and well-being of Native Hawaiians.

''(6) The Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions. In referring to themselves, Native Hawaiians use the term ''Kanaka Maoli'', a term frequently used in the 19th century to describe the native people of Hawaii.

''(7) The constitution and statutes of the State of Hawaii—

''(A) acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust; and

''(B) reaffirm and protect the unique right of the Native Hawaiian people to practice and perpetuate their cultural and religious customs, beliefs, practices, and language.

''(8) At the time of the arrival of the first nonindigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion.

''(9) A unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

''(10) Throughout the 19th century and until 1893, the United States—

''(A) recognized the independence of the Hawaiian Nation;

''(B) extended full and complete diplomatic recognition to the Hawaiian Government; and

''(C) entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875 and 1887.

''(11) In 1893, John L. Stevens, the United States Minister assigned to the sovereign and independent Kingdom of Hawaii, conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful government of Hawaii.

''(12) In pursuance of that conspiracy, the United States Minister and the naval representative of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawaii and the United States Minister thereupon extended diplomatic recognition of a provisional government formed by the conspirators without the consent of the native people of Hawaii or the lawful Government of Hawaii in violation of treaties between the 2 nations and of international law.

''(13) In a message to Congress on December 18, 1893, then President Grover Cleveland reported fully and accurately on these illegal actions, and acknowledged that by these acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown, and the President concluded that a ''substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people required that we should endeavor to repair''.

''(14) Queen Lili'uokalani, the lawful monarch of Hawaii, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawaii, promptly petitioned the United States for redress of these wrongs and for restoration of the indigenous government of the Hawaiian nation, but this petition was not acted upon.

''(15) Further, the United States has acknowledged the significance of these events and has apologized to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii with the participation of agents and citizens of the United States, and the resulting deprivation of the rights of Native Hawaiians to self-determination in legislation in 1993 (Public Law 103-150; 107 Stat. 1510).

''(16) In 1898, the United States annexed Hawaii through the Newlands Resolution without the consent of or compensation to the indigenous people of Hawaii or their sovereign government who were thereby denied the mechanism for expression of their inherent sovereignty through self-government and self- determination, their lands and ocean resources.

''(17) Through the Newlands Resolution and the 1900 Organic Act, the Congress received 1,750,000 acres of lands formerly owned by the Crown and Government of the Hawaiian Kingdom and exempted the lands from then existing public land laws of the United States by mandating that the revenue and proceeds from these lands be ''used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes'', thereby establishing a special trust relationship between the United States and the inhabitants of Hawaii.

''(18) In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 which designated 200,000 acres of the ceded public lands for exclusive homesteading by Native Hawaiians, thereby affirming the trust relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane who was cited in the Committee Report of the Committee on Territories of the House of Representatives as stating, ''One thing that impressed me . . . was the fact that the natives of the islands . . . for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.''.

''(19) In 1938, Congress again acknowledged the unique status of the Native Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the extension to Native Hawaiians and to permit fishing in the area ''only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance''.

''(20) Under the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Native Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges, and legislative amendments affecting the rights of beneficiaries under such Act.

''(21) Under the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States to the State of Hawaii but reaffirmed the trust relationship which existed between the United States and the Native Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of such Act.

''(22) The authority of the Congress under the Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawaii.

''(23) Further, the United States has recognized the authority of the Native Hawaiian people to continue to work towards an appropriate form of sovereignty as defined by the Native Hawaiian people themselves in provisions set forth in legislation returning the Hawaiian Island of Kaho'olawe to custodial management by the State of Hawaii in 1994.

''(24) In furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians, the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people. This program is conducted by the Native Hawaiian Health Care Systems, the Native Hawaiian Health Scholarship Program and Papa Ola Lokahi. Health initiatives from these and other health institutions and agencies using Federal assistance have begun to lower the century-old morbidity and mortality rates of Native Hawaiian people by providing comprehensive disease prevention, health promotion activities and increasing the number of Native Hawaiians in the health and allied health professions. This has been accomplished through the Native Hawaiian Health Care Act of 1988 (Public Law 100-579) and its reauthorization in section 9168 of Public Law 102-396 (106 Stat. 1948).

''(25) This historical and unique legal relationship has been consistently recognized and affirmed by Congress through the enactment of Federal laws which extend to the Native Hawaiian people the same rights and privileges accorded to American Indian,

Alaska Native, Eskimo, and Aleut communities, including the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.), the American Indian Religious Freedom Act (42 U.S.C. 1996), the National Museum of the American Indian Act (20 U.S.C. 80q et seq.), and the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.).

''(26) The United States has also recognized and reaffirmed the trust relationship to the Native Hawaiian people through legislation which authorizes the provision of services to Native Hawaiians, specifically, the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Veterans' Benefits and Services Act of 1988, the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Native Hawaiian Health Care Act of 1988 (Public Law 100-579), the Health Professions Reauthorization Act of 1988, the Nursing Shortage Reduction and Education Extension Act of 1988, the Handicapped Programs Technical Amendments Act of 1988, the Indian Health Care Amendments of 1988, and the Disadvantaged Minority Health Improvement Act of 1990.

''(27) The United States has also affirmed the historical and unique legal relationship to the Hawaiian people by authorizing the provision of services to Native Hawaiians to address problems of alcohol and drug abuse under the Anti-Drug Abuse Act of 1986 (Public Law 99-570).

''(28) Further, the United States has recognized that Native Hawaiians, as aboriginal, indigenous, native peoples of Hawaii, are a unique population group in Hawaii and in the continental United States and has so declared in Office of Management and Budget Circular 15 in 1997 and Presidential Executive Order No. 13125, dated June 7, 1999.

''(29) Despite the United States having expressed its commitment to a policy of reconciliation with the Native Hawaiian people for past grievances in Public Law 103-150 (107 Stat. 1510) the unmet health needs of the Native Hawaiian people remain severe and their health status continues to be far below that of the general population of the United States.

''(b) UNMET NEEDS AND HEALTH DISPARITIES.—Congress finds that the unmet needs and serious health disparities that adversely affect the Native Hawaiian people include the following:

''(1) CHRONIC DISEASE AND ILLNESS.—

''(A) CANCER.—

''(i) IN GENERAL.—With respect to all cancer—

''(I) Native Hawaiians have the highest cancer mortality rates in the State of Hawaii (231.0 out of every 100,000 residents), 45 percent higher than that for the total State population (159.7 out of every 100,000 residents);

''(II) Native Hawaiian males have the highest cancer mortality rates in the State of Hawaii for cancers of the lung, liver and pancreas and for all cancers combined;

''(III) Native Hawaiian females ranked highest in the State of Hawaii for cancers of the lung, liver, pancreas, breast, cervix uteri, corpus uteri, stomach, and rectum, and for all cancers combined;

''(IV) Native Hawaiian males have the highest years of productive life lost from cancer in the State of Hawaii with 8.7 years compared to 6.4 years for other males; and

''(V) Native Hawaiian females have 8.2 years of productive life lost from cancer in the State of Hawaii as compared to 6.4 years for other females in the State of Hawaii;

''(ii) BREAST CANCER.—With respect to breast cancer—

''(I) Native Hawaiians have the highest mortality rates in the State of Hawaii from breast cancer (37.96 out of every 100,000 residents), which is 25 percent higher than that for Caucasian Americans (30.25 out of every 100,000 residents) and 106 percent higher than that for Chinese Americans (18.39 out of every 100,000 residents); and

''(II) nationally, Native Hawaiians have the third highest mortality rates due to breast cancer (25.0 out of every 100,000 residents) following African Americans (31.4 out of every 100,000 residents) and Caucasian Americans (27.0 out of every 100,000 residents).

''(iii) CANCER OF THE CERVIX.—Native Hawaiians have the highest mortality rates from cancer of the cervix in the State of Hawaii (3.82 out of every 100,000 residents) followed by Filipino Americans (3.33 out of every 100,000 residents) and Caucasian Americans (2.61 out of every 100,000 residents).

''(iv) LUNG CANCER.—Native Hawaiians have the highest mortality rates from lung cancer in the State of Hawaii (90.70 out of every 100,000 residents), which is 61 percent higher than Caucasian Americans, who rank second and 161 percent higher than Japanese Americans, who rank third.

''(v) PROSTATE CANCER.—Native Hawaiian males have the second highest mortality rates due to prostate cancer in the State of Hawaii (25.86 out of every 100,000 residents) with Caucasian Americans having the highest mortality rate from prostate cancer (30.55 out of every 100,000 residents).

''(B) DIABETES.—With respect to diabetes, for the years 1989 through 1991—

''(i) Native Hawaiians had the highest mortality rate due to diabetes mellitis (34.7 out of every 100,000 residents) in the State of Hawaii which is 130 percent higher than the statewide rate for all other races (15.1 out of every 100,000 residents);

''(ii) full-blood Hawaiians had a mortality rate of 93.3 out of every 100,000 residents, which is 518 percent higher than the rate for the statewide population of all other races; and

''(iii) Native Hawaiians who are less than full-blood had a mortality rate of 27.1 out of every 100,000 residents, which is 79 percent higher than the rate for the statewide population of all other races.

''(C) ASTHMA.—With respect to asthma—

''(i) in 1990, Native Hawaiians comprised 44 percent of all asthma cases in the State of Hawaii for those 18 years of age and younger, and 35 percent of all asthma cases reported; and

''(ii) in 1992, the Native Hawaiian rate for asthma was 81.7 out of every 1000 residents, which was 73 percent higher than the rate for the total statewide population of 47.3 out of every 1000 residents.

''(D) CIRCULATORY DISEASES.—

''(i) HEART DISEASE.—With respect to heart disease—

''(I) the death rate for Native Hawaiians from heart disease (333.4 out of every 100,000 residents) is 66 percent higher than for the entire State of Hawaii (201.1 out of every 100,000 residents); and

''(II) Native Hawaiian males have the greatest years of productive life lost in the State of Hawaii where Native Hawaiian males lose an average of 15.5 years and Native Hawaiian females lose an average of 8.2 years due to heart disease, as compared to 7.5 years for all males in the State of Hawaii and 6.4 years for all females.

''(ii) HYPERTENSION.—The death rate for Native Hawaiians from hypertension (3.5 out of every 100,000 residents) is 84 percent higher than that for the entire State (1.9 out of every 100,000 residents).

''(iii) STROKE.—The death rate for Native Hawaiians from stroke (58.3 out of every 100,000 residents) is 13 percent higher than that for the entire State (51.8 out of every 100,000 residents).

''(2) INFECTIOUS DISEASE AND ILLNESS.—The incidence of AIDS for Native Hawaiians is at least twice as high per 100,000 residents (10.5 percent) than that for any other non-Caucasian group in the State of Hawaii.

''(3) ACCIDENTS.—With respect to accidents—

''(A) the death rate for Native Hawaiians from accidents (38.8 out of every 100,000 residents) is 45 percent higher than that for the entire State (26.8 out of every 100,000 residents);

''(B) Native Hawaiian males lose an average of 14 years of productive life lost from accidents as compared to 9.8 years for all other males in Hawaii; and

''(C) Native Hawaiian females lose and average of 4 years of productive life lost from accidents but this rate is the highest rate among all females in the State of Hawaii.

''(4) DENTAL HEALTH.—With respect to dental health—

''(A) Native Hawaiian children exhibit among the highest rates of dental caries in the nation, and the highest in the State of Hawaii as compared to the 5 other major ethnic groups in the State;

''(B) the average number of decayed or filled primary teeth for Native Hawaiian children ages 5 through 9 years was 4.3 as compared with 3.7 for the entire State of Hawaii and 1.9 for the United States; and

''(C) the proportion of Native Hawaiian children ages 5 through 12 years with unmet treatment needs (defined as having active dental caries requiring treatment) is 40 percent as compared with 33 percent for all other races in the State of Hawaii.

''(5) LIFE EXPECTANCY.—With respect to life expectancy—

''(A) Native Hawaiians have the lowest life expectancy of all population groups in the State of Hawaii;

''(B) between 1910 and 1980, the life expectancy of Native Hawaiians from birth has ranged from 5 to 10 years less than that of the overall State population average; and

''(C) the most recent tables for 1990 show Native Hawaiian life expectancy at birth (74.27 years) to be about 5 years less than that of the total State population (78.85 years).

''(6) MATERNAL AND CHILD HEALTH.—

''(A) PRENATAL CARE.—With respect to prenatal care—

''(i) as of 1996, Native Hawaiian women have the highest prevalence (21 percent) of having had no prenatal care during their first trimester of pregnancy when compared to the 5 largest ethnic groups in the State of Hawaii;

''(ii) of the mothers in the State of Hawaii who received no prenatal care throughout their pregnancy in 1996, 44 percent were Native Hawaiian;

''(iii) over 65 percent of the referrals to Healthy Start in fiscal years 1996 and 1997 were Native Hawaiian newborns; and

''(iv) in every region of the State of Hawaii, many Native Hawaiian newborns begin life in a potentially hazardous circumstance, far higher than any other racial group.

''(B) BIRTHS.—With respect to births—

''(i) in 1996, 45 percent of the live births to Native Hawaiian mothers were infants born to single mothers which statistics indicate put infants at higher risk of low birth weight and infant mortality;

''(ii) in 1996, of the births to Native Hawaiian single mothers, 8 percent were low birth weight (under 2500 grams); and

''(iii) of all low birth weight babies born to single mothers in the State of Hawaii, 44 percent were Native Hawaiian.

''(C) TEEN PREGNANCIES.—With respect to births—

''(i) in 1993 and 1994, Native Hawaiians had the highest percentage of teen (individuals

who were less than 18 years or age) births (8.1 percent) compared to the rate for all other races in the State of Hawaii (3.6 percent);

''(ii) in 1996, nearly 53 percent of all mothers in Hawaii under 18 years of age were Native Hawaiian;

''(iii) lower rates of abortion (a third lower than for the statewide population) among Hawaiian women may account in part, for the higher percentage of live births;

''(iv) in 1995, of the births to mothers age 14 years and younger in Hawaii, 66 percent were Native Hawaiian; and

''(v) in 1996, of the births in this same group, 48 percent were Native Hawaiian.

''(D) FETAL MORTALITY.—In 1996, Native Hawaiian fetal mortality rates comprised 15 percent of all fetal deaths for the State of Hawaii. However, for fetal deaths occurring in mothers under the age of 18 years, 32 percent were Native Hawaiian, and for mothers 18 through 24 years of age, 28 percent were Native Hawaiians.

''(7) MENTAL HEALTH.—

''(A) ALCOHOL AND DRUG ABUSE.—With respect to alcohol and drug abuse—

''(i) Native Hawaiians represent 38 percent of the total admissions to Department of Health, Alcohol, Drugs and Other Drugs, funded substance abuse treatment programs;

''(ii) in 1997, the prevalence of smoking by Native Hawaiians was 28.5 percent, a rate that is 53 percent higher than that for all other races in the State of Hawaii which is 18.6 percent;

''(iii) Native Hawaiians have the highest prevalence rates of acute drinking (31 percent), a rate that is 79 percent higher than that for all other races in the State of Hawaii;

''(iv) the chronic drinking rate among Native Hawaiians is 54 percent higher than that for all other races in the State of Hawaii;

''(v) in 1991, 40 percent of the Native Hawaiian adults surveyed reported having used marijuana compared with 30 percent for all other races in the State of Hawaii; and

''(vi) nine percent of the Native Hawaiian adults surveyed reported that they are current users (within the past year) of marijuana, compared with 6 percent for all other races in the State of Hawaii.

''(B) CRIME.—With respect to crime—

''(i) in 1996, of the 5,944 arrests that were made for property crimes in the State of Hawaii, arrests of Native Hawaiians comprised 20 percent of that total;

''(ii) Native Hawaiian juveniles comprised a third of all juvenile arrests in 1996;

''(iii) In 1996, Native Hawaiians represented 21 percent of the 8,000 adults arrested for violent crimes in the State of Hawaii, and 38 percent of the 4,066 juvenile arrests;

''(iv) Native Hawaiians are over-represented in the prison population in Hawaii;

''(v) in 1995 and 1996 Native Hawaiians comprised 36.5 percent of the sentenced felon prison population in Hawaii, as compared to 20.5 percent for Caucasian Americans, 3.7 percent for Japanese Americans, and 6 percent for Chinese Americans;

''(vi) in 1995 and 1996 Native Hawaiians made up 45.4 percent of the technical violator population, and at the Hawaii Youth Correctional Facility, Native Hawaiians constituted 51.6 percent of all detainees in fiscal year 1997; and

''(vii) based on anecdotal information from inmates at the Halawa Correction Facilities, Native Hawaiians are estimated to comprise between 60 and 70 percent of all inmates.

''(8) HEALTH PROFESSIONS EDUCATION AND TRAINING.—With respect to health professions education and training—

''(A) Native Hawaiians age 25 years and older have a comparable rate of high school completion, however, the rates of baccalaureate degree achievement amongst Native Hawaiians are less than the norm in the State of Hawaii (6.9 percent and 15.76 percent respectively);

''(B) Native Hawaiian physicians make up 4 percent of the total physician workforce in the State of Hawaii; and

''(C) in fiscal year 1997, Native Hawaiians comprised 8 percent of those individuals who earned Bachelor's Degrees, 14 percent of those individuals who earned professional diplomas, 6 percent of those individuals who earned Master's Degrees, and less than 1 percent of individuals who earned doctoral degrees at the University of Hawaii.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) DISEASE PREVENTION.—The term 'disease prevention' includes—

''(A) immunizations;

''(B) control of high blood pressure;

''(C) control of sexually transmittable diseases;

''(D) prevention and control of diabetes;

''(E) control of toxic agents;

''(F) occupational safety and health;

''(G) accident prevention;

''(H) fluoridation of water;

''(I) control of infectious agents; and

''(J) provision of mental health care.

''(2) HEALTH PROMOTION.—The term 'health promotion' includes—

''(A) pregnancy and infant care, including prevention of fetal alcohol syndrome;

''(B) cessation of tobacco smoking;

''(C) reduction in the misuse of alcohol and drugs;

''(D) improvement of nutrition;

''(E) improvement in physical fitness;

''(F) family planning;

''(G) control of stress;

''(H) reduction of major behavioral risk factors and promotion of healthy lifestyle practices; and

''(I) integration of cultural approaches to health and well-being, including traditional practices relating to the land (‘aina), water (wai), and ocean (kai).

''(3) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is Kanaka Maoli (a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii) as evidenced by—

''(A) genealogical records,

''(B) Kupuna (elders) or Kama‘aina (long-term community residents) verification; or

''(C) birth records of the State of Hawaii.

''(4) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—The term 'Native Hawaiian health care system' means an entity—

''(A) which is organized under the laws of the State of Hawaii;

''(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable;

''(C) which is a public or nonprofit private entity;

''(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health care services;

''(E) which may be composed of as many as 8 Native Hawaiian health care systems as necessary to meet the health care needs of each island's Native Hawaiians; and

''(F) which is—

''(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs, or portions of programs, authorized by this chapter for the benefit of Native Hawaiians; and

''(ii) certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services and meet the requirements under the contract the Native Hawaiian health care system enters into with the Secretary or the grant the Native Hawaiian health care system receives from the Secretary pursuant to this Act.

''(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' means any organization—

''(A) which serves the interests of Native Hawaiians; and

''(B) which is—

''(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this Act for the benefit of Native Hawaiians; and

''(ii) a public or nonprofit private entity.

''(6) PAPA OLA LOKAHI.—

''(A) IN GENERAL.—The term 'Papa Ola Lokahi' means an organization that is composed of public agencies and private organizations focusing on improving the health status of Native Hawaiians. Board members of such organization may include representation from—

''(i) E Ola Mau;

''(ii) the Office of Hawaiian Affairs of the State of Hawaii;

''(iii) Alu Like Inc.;

''(iv) the University of Hawaii;

''(v) the Hawaii State Department of Health;

''(vi) the Kamehameha Schools Bishop Estate, or other Native Hawaiian organization responsible for the administration of the Native Hawaiian Health Scholarship Program;

''(vii) the Hawaii State Primary Care Association, or other organizations responsible for the placement of scholars from the Native Hawaiian Health Scholarship Program;

''(viii) Ahahui O Na Kauka, the Native Hawaiian Physicians Association;

''(ix) Ho‘ola Lahui Hawaii, or a health care system serving Kaua‘i or Ni‘ihau, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

''(x) Ke Ola Mamo, or a health care system serving the island of O‘ahu and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

''(xi) Na Pu‘uwai or a health care system serving Moloka‘i or Lana‘i, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of those islands;

''(xii) Hui No Ke Ola Pono, or a health care system serving the island of Maui, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

''(xiii) Hui Malama Ola Ha ‘Oiwi, or a health care system serving the island of Hawaii, and which may be composed of as many health care centers as are necessary to meet the health care needs of the Native Hawaiians of that island;

''(xiv) other Native Hawaiian health care systems as certified and recognized by Papa Ola Lokahi in accordance with this Act; and

''(xv) such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians.

''(B) LIMITATION.—Such term does not include any organization described in subparagraph (A) if the Secretary determines that such organization has not developed a mission statement with clearly defined goals and objectives for the contributions the organization will make to the Native Hawaiian health care systems, and an action plan for carrying out those goals and objectives.

''(7) PRIMARY HEALTH SERVICES.—The term 'primary health services' means—

''(A) services of physicians, physicians' assistants, nurse practitioners, and other health professionals;

''(B) diagnostic laboratory and radiologic services;

''(C) preventive health services including perinatal services, well child services, family planning services, nutrition services, home health services, and, generally, all those services associated with enhanced health and wellness.

''(D) emergency medical services;

''(E) transportation services as required for adequate patient care;

''(F) preventive dental services; and

''(G) pharmaceutical and nutraceutical services.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(9) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term 'traditional Native Hawaiian healer' means a practitioner—

''(A) who—

''(i) is of Native Hawaiian ancestry; and

''(ii) has the knowledge, skills, and experience in direct personal health care of individuals; and

''(B) whose knowledge, skills, and experience are based on demonstrated learning of Native Hawaiian healing practices acquired by—

''(i) direct practical association with Native Hawaiian elders; and

''(ii) oral traditions transmitted from generation to generation.

''SEC. 4. DECLARATION OF POLICY.

''(a) CONGRESS.—Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the indigenous people of Hawaii—

''(1) to raise the health status of Native Hawaiians to the highest possible health level; and

''(2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.

''(b) INTENT OF CONGRESS.—

''(1) IN GENERAL.—It is the intent of the Congress that—

''(A) health care programs having a demonstrated effect of substantially reducing or eliminating the over-representation of Native Hawaiians among those suffering from chronic and acute disease and illness and addressing the health needs of Native Hawaiians shall be established and implemented; and

''(B) the Nation meet the Healthy People 2010 and Kanaka Maoli health objectives described in paragraph (2) by the year 2010.

''(2) HEALTHY PEOPLE AND KANAKA MAOLI HEALTH OBJECTIVES.—The Healthy People 2010 and Kanaka Maoli health objectives described in this paragraph are the following:

''(A) CHRONIC DISEASE AND ILLNESS.—

''(i) CARDIOVASCULAR DISEASE.—With respect to cardiovascular disease—

''(I) to increase to 75 percent the proportion of females who are aware that cardiovascular disease (heart disease and stroke) is the leading cause of death for all females.

''(II) to increase to at least 95 percent the proportion of adults who have had their blood pressure measured within the preceding 2 years and can state whether their blood pressure was normal or high; and

''(III) to increase to at least 75 percent the proportion of adults who have had their blood cholesterol checked within the preceding 5 years.

''(ii) DIABETES.—With respect to diabetes—

''(I) to increase to 80 percent the proportion of persons with diabetes whose condition has been diagnosed;

''(II) to increase to at least 20 percent the proportion of patients with diabetes who annually obtain lipid assessment (total cholesterol, LDL cholesterol, HDL cholesterol, triglyceride); and

''(III) to increase to 52 percent the proportion of persons with diabetes who have received formal diabetes education.

''(iii) CANCER.—With respect to cancer—

''(I) to increase to at least 95 percent the proportion of women age 18 and older who have ever received a Pap test and to at least 85 percent those who have received a Pap test within the preceding 3 years; and

''(II) to increase to at least 40 percent the proportion of women age 40 and older who have received a breast examination and a mammogram within the preceding 2 years.

''(iv) DENTAL HEALTH.—With respect to dental health—

''(I) to reduce untreated cavities in the primary and permanent teeth (mixed dentition) so that the proportion of children with decayed teeth not filled is not more than 12 percent among children ages 2 through 4, 22 percent among children ages 6 through 8, and 15 percent among adolescents ages 8 through 15;

''(II) to increase to at least 70 percent the proportion of children ages 8 through 14 who have received protective sealants in permanent molar teeth; and

''(III) to increase to at least 70 percent the proportion of adults age 18 and older using the oral health care system each year.

''(v) MENTAL HEALTH.—With respect to mental health—

''(I) to incorporate or support land('aina)-based, water(wai)-based, or the ocean(kai)-based programs within the context of mental health activities; and

''(II) to reduce the anger and frustration levels within 'ohana focusing on building positive relationships and striving for balance in living (lokahi) and achieving a sense of contentment (pono).

''(vi) ASTHMA.—With respect to asthma—

''(I) to increase to at least 40 percent the proportion of people with asthma who receive formal patient education, including information about community and self-help resources, as an integral part of the management of their condition;

''(II) to increase to at least 75 percent the proportion of patients who receive counseling from health care providers on how to recognize early signs of worsening asthma and how to respond appropriately; and

''(III) to increase to at least 75 percent the proportion of primary care providers who are trained to provide culturally competent care to ethnic minorities (Native Hawaiians) seeking health care for chronic obstructive pulmonary disease.

''(B) INFECTIOUS DISEASE AND ILLNESS.—

''(i) IMMUNIZATIONS.—With respect to immunizations—

''(I) to reduce indigenous cases of vaccine-preventable disease;

''(II) to achieve immunization coverage of at least 90 percent among children between 19 and 35 months of age; and

''(III) to increase to 90 percent the rate of immunization coverage among adults 65 years of age or older, and 60 percent for high-risk adults between 18 and 64 years of age.

''(ii) SEXUALLY TRANSMITTED DISEASES, HIV; AIDS.—To increase the number of HIV-infected adolescents and adults in care who receive treatment consistent with current public health treatment guidelines.

''(C) WELLNESS.—

''(i) EXERCISE.—With respect to exercise—

''(I) to increase to 85 percent the proportion of people ages 18 and older who engage in any leisure time physical activity; and

''(II) to increase to at least 30 percent the proportion of people ages 18 and older who engage regularly, preferably daily, in sustained physical activity for at least 30 minutes per day.

''(ii) NUTRITION.—With respect to nutrition—

''(I) to increase to at least 60 percent the prevalence of healthy weight (defined as body mass index equal to or greater than 19.0 and less than 25.0) among all people age 20 and older;

''(II) to increase to at least 75 percent the proportion of people age 2 and older who meet the dietary guidelines' minimum average daily goal of at least 5 servings of vegetables and fruits; and

''(III) to increase the use of traditional Native Hawaiian foods in all peoples' diets and dietary preferences.

''(iii) LIFESTYLE.—With respect to lifestyle—

''(I) to reduce cigarette smoking among pregnant women to a prevalence of not more than 2 percent;

''(II) to reduce the prevalence of respiratory disease, cardiovascular disease, and cancer resulting from exposure to tobacco smoke;

''(III) to increase to at least 70 percent the proportion of all pregnancies among women between the ages of 15 and 44 that are planned (intended); and

''(IV) to reduce deaths caused by unintentional injuries to not more than 25.9 per 100,000.

''(iv) CULTURE.—With respect to culture—

''(I) to develop and implement cultural values within the context of the corporate cultures of the Native Hawaiian health care systems, the Native Hawaiian Health Scholarship Program, and Papa Ola Lokahi; and

''(II) to facilitate the provision of Native Hawaiian healing practices by Native Hawaiian healers for those clients desiring such assistance.

''(D) ACCESS.—With respect to access—

''(i) to increase the proportion of patients who have coverage for clinical preventive services as part of their health insurance; and

''(ii) to reduce to not more than 7 percent the proportion of individuals and families who report that they did not obtain all the health care that they needed.

''(E) HEALTH PROFESSIONS TRAINING AND EDUCATION.—With respect to health professions training and education—

''(i) to increase the proportion of all degrees in the health professions and allied and associated health professions fields awarded to members of underrepresented racial and ethnic minority groups; and

''(ii) to support training activities and programs in traditional Native Hawaiian healing practices by Native Hawaiian healers.

''(c) REPORT.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to Congress under section 11, a report on the progress made in each toward meeting each of the objectives described in subsection (b)(2).

''SEC. 5. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.

''(a) DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordinating, implementing and updating a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to maintain and improve the health status of Native Hawaiians, and to support community-based initiatives that

are reflective of holistic approaches to health.

''(2) COLLABORATION.—The Papa Ola Lokahi shall collaborate with the Office of Hawaiian Affairs in carrying out this section.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

''SEC. 6. FUNCTIONS OF PAPA OLA LOKAHI.

''(a) RESPONSIBILITY.—Papa Ola Lokahi shall be responsible for the—

''(1) coordination, implementation, and updating, as appropriate, of the comprehensive health care master plan developed pursuant to section 5;

''(2) training for the persons described in subparagraphs (B) and (C) of section 7(c)(1);

''(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services; and

''(4) the development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this Act.

''(b) SPECIAL PROJECT FUNDS.—Papa Ola Lokahi may receive special project funds that may be appropriated for the purpose of research on the health status of Native Hawaiians or for the purpose of addressing the health care needs of Native Hawaiians.

''(c) CLEARINGHOUSE.—

''(1) IN GENERAL.—Papa Ola Lokahi shall serve as a clearinghouse for—

''(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

''(B) the identification and research into diseases affecting Native Hawaiians;

''(C) the availability of Native Hawaiian project funds, research projects and publications;

''(D) the collaboration of research in the area of Native Hawaiian health; and

''(E) the timely dissemination of information pertinent to the Native Hawaiian health care systems.

''(2) CONSULTATION.—The Secretary shall consult periodically with Papa Ola Lokahi for the purposes of maintaining the clearinghouse under paragraph (1) and providing information about programs in the Department that specifically address Native Hawaiian issues and concerns.

''(d) FISCAL ALLOCATION AND COORDINATION OF PROGRAMS AND SERVICES.—

''(1) RECOMMENDATIONS.—Papa Ola Lokahi shall provide annual recommendations to the Secretary with respect to the allocation of all amounts appropriated under this Act.

''(2) COORDINATION.—Papa Ola Lokahi shall, to the maximum extent possible, coordinate and assist the health care programs and services provided to Native Hawaiians.

''(3) REPRESENTATION ON COMMISSION.—The Secretary, in consultation with Papa Ola Lokahi, shall make recommendations for Native Hawaiian representation on the President's Advisory Commission on Asian Americans and Pacific Islanders.

''(e) TECHNICAL SUPPORT.—Papa Ola Lokahi shall act as a statewide infrastructure to provide technical support and coordination of training and technical assistance to the Native Hawaiian health care systems.

''(f) RELATIONSHIPS WITH OTHER AGENCIES.—

''(1) AUTHORITY.—Papa Ola Lokahi may enter into agreements or memoranda of understanding with relevant agencies or organizations that are capable of providing resources or services to the Native Hawaiian health care systems.

''(2) MEDICARE, MEDICAID, SCHIP.—Papa Ola Lokahi shall develop or make every reasonable effort to—

''(A) develop a contractual or other arrangement, through memoranda of understanding or agreement, with the Health Care Financing Administration or the agency of the State which administers or supervises the administration of a State plan or waiver approved under title XVIII, XIX or title XXI of the Social Security Act for payment of all or a part of the health care services to persons who are eligible for medical assistance under such a State plan or waiver; and

''(B) assist in the collection of appropriate reimbursement for health care services to persons who are entitled to insurance under title XVIII of the Social Security Act.

''SEC. 7. NATIVE HAWAIIAN HEALTH CARE SYSTEMS.

''(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND PRIMARY HEALTH SERVICES.—

''(1) GRANTS AND CONTRACTS.—The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services, as well as primary health services, to Native Hawaiians who desire and are committed to bettering their own health.

''(2) PREFERENCE.—In making grants and entering into contracts under this subsection, the Secretary shall give preference to Native Hawaiian health care systems and Native Hawaiian organizations and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health care systems.

''(3) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of paragraph (1) if the entity is a Native Hawaiian health care system.

''(4) LIMITATION ON NUMBER OF ENTITIES.—The Secretary may make a grant to, or enter into a contract with, not more than 8 Native Hawaiian health care systems under this subsection during any fiscal year.

''(b) PLANNING GRANT OR CONTRACT.—In addition to grants and contracts under subsection (a), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii.

''(c) SERVICES TO BE PROVIDED.—

''(1) IN GENERAL.—Each recipient of funds under subsection (a) shall ensure that the following services either are provided or arranged for:

''(A) Outreach services to inform Native Hawaiians of the availability of health services.

''(B) Education in health promotion and disease prevention of the Native Hawaiian population by, wherever possible, Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators.

''(C) Services of physicians, physicians' assistants, nurse practitioners or other health and allied-health professionals.

''(D) Immunizations.

''(E) Prevention and control of diabetes, high blood pressure, and otitis media.

''(F) Pregnancy and infant care.

''(G) Improvement of nutrition.

''(H) Identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians.

''(I) Collection of data related to the prevention of diseases and illnesses among Native Hawaiians.

''(J) Services within the meaning of the terms 'health promotion', 'disease prevention', and 'primary health services', as such terms are defined in section 3, which are not specifically referred to in subsection (a).

''(K) Support of culturally appropriate activities enhancing health and wellness including land-based, water-based, ocean-based, and spiritually-based projects and programs.

''(2) TRADITIONAL HEALERS.—The health care services referred to in paragraph (1) which are provided under grants or contracts under subsection (a) may be provided by traditional Native Hawaiian healers.

''(d) FEDERAL TORT CLAIMS ACT.—Individuals that provide medical, dental, or other services referred to in subsection (a)(1) for Native Hawaiian health care systems, including providers of traditional Native Hawaiian healing services, shall be treated as if such individuals were members of the Public Health Service and shall be covered under the provisions of section 224 of the Public Health Service Act.

''(e) SITE FOR OTHER FEDERAL PAYMENTS.—A Native Hawaiian health care system that receives funds under subsection (a) shall provide a designated area and appropriate staff to serve as a Federal loan repayment facility. Such facility shall be designed to enable health and allied-health professionals to remit payments with respect to loans provided to such professionals under any Federal loan program.

''(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary may not make a grant to, or enter into a contract with, an entity under subsection (a) unless the entity agrees that amounts received under such grant or contract will not, directly or through contract, be expended—

''(1) for any services other than the services described in subsection (c)(1);

''(2) to provide inpatient services;

''(3) to make cash payments to intended recipients of health services; or

''(4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

''(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant to, or enter into a contract with, an entity under subsection (a) unless the entity agrees that, whether health services are provided directly or through contract—

''(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

''(2) the entity will impose a charge for the delivery of health services, and such charge—

''(A) will be made according to a schedule of charges that is made available to the public; and

''(B) will be adjusted to reflect the income of the individual involved.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) GENERAL GRANTS.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 through 2010 to carry out subsection (a).

''(2) PLANNING GRANTS.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 through 2010 to carry out subsection (b).

''SEC. 8. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.

''(a) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

''(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section 5;

''(2) training for the persons described in subparagraphs (B) and (C) of section 7(c)(1);

''(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services;

''(4) the development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this Act;

''(5) a clearinghouse function for—

''(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

''(B) the identification and research into diseases affecting Native Hawaiians; and

''(C) the availability of Native Hawaiian project funds, research projects and publications;

''(6) the coordination of the health care programs and services provided to Native Hawaiians; and

''(7) the administration of special project funds.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 through 2010 to carry out subsection (a).

''SEC. 9. ADMINISTRATION OF GRANTS AND CONTRACTS.

''(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

''(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

''(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this Act with an entity unless the entity—

''(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

''(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

''(3) with respect to providing health services to any population of Native Hawaiians, a substantial portion of which has a limited ability to speak the English language—

''(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

''(B) has designated at least 1 individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

''(4) with respect to health services that are covered in the plan of the State of Hawaii approved under title XIX of the Social Security Act—

''(A) if the entity will provide under the grant or contract any such health services directly—

''(i) the entity has entered into a participation agreement under such plans; and

''(ii) the entity is qualified to receive payments under such plan; and

''(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

''(i) the organization has entered into a participation agreement under such plan; and

''(ii) the organization is qualified to receive payments under such plan; and

''(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the use and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

''(d) CONTRACT EVALUATION.—

''(1) DETERMINATION OF NONCOMPLIANCE.—If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 7, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance.

''(2) NONRENEWAL.—If the Secretary determines that the noncompliance or unsatisfactory performance described in paragraph (1) with respect to an entity cannot be resolved and prevented in the future, the Secretary shall not renew the contract with such entity and may enter into a contract under section 7 with another entity referred to in subsection (a)(3) of such section that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this paragraph.

''(3) CONSIDERATION OF RESULTS.—In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of the evaluations conducted under this section.

''(4) APPLICATION OF FEDERAL LAWS.—All contracts entered into by the Secretary under this Act shall be in accordance with all Federal contracting laws and regulations, except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

''(5) PAYMENTS.—Payments made under any contract entered into under this Act may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this Act.

''(e) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Except with respect to grants and contracts under section 8, the Secretary may not make a grant to, or enter into a contract with, an entity under this Act unless the entity agrees that the entity will not expend more than 15 percent of the amounts received pursuant to this Act for the purpose of administering the grant or contract.

''(f) REPORT.—

''(1) IN GENERAL.—For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this Act, such entity shall submit to the Secretary and to Papa Ola Lokahi an annual report—

''(A) on the activities conducted by the entity under the grant or contract;

''(B) on the amounts and purposes for which Federal funds were expended; and

''(C) containing such other information as the Secretary may request.

''(2) AUDITS.—The reports and records of any entity concerning any grant or contract under this Act shall be subject to audit by the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States.

''(g) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant.

''SEC. 10. ASSIGNMENT OF PERSONNEL.

''(a) IN GENERAL.—The Secretary may enter into an agreement with any entity under which the Secretary may assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

''(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under subsection (a) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

''SEC. 11. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS AND FELLOWSHIPS.

''(a) ELIGIBILITY.—Subject to the availability of amounts appropriated under subsection (c), the Secretary shall provide funds through a direct grant or a cooperative agreement to Kamehameha Schools Bishop Estate or another Native Hawaiian organization or health care organization with experience in the administration of educational scholarships or placement services for the purpose of providing scholarship assistance to students who—

''(1) meet the requirements of section 338A of the Public Health Service Act, except for assistance as provided for under subsection (b)(2); and

''(2) are Native Hawaiians.

''(b) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—The scholarship assistance under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules as apply to scholarship assistance provided under section 338A of the Public Health Service Act (except as provided for in paragraph (2)), except that—

''(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve the Native Hawaiian health care systems identified by Papa Ola Lokahi;

''(B) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Kamehameha Schools Bishop Estate or the Native Hawaiian organization administering the program;

''(C) the obligated service requirement for each scholarship recipient (except for those receiving assistance under paragraph (2)) shall be fulfilled through service, in order of priority, in—

''(i) any one of the Native Hawaiian health care systems; or

''(ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii;

''(D) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs.

''(E) financial assistance may be provided to scholarship recipients in those health professions designated in such section 338A while they are fulfilling their service requirement in any one of the Native Hawaiian health care systems or community health centers.

''(2) FELLOWSHIPS.—Financial assistance through fellowships may be provided to Native Hawaiian applicants accepted and participating in a certificated program provided by a traditional Native Hawaiian healer in

traditional Native Hawaiian healing practices including lomi-lomi, la'au lapa'au, and ho'oponopono. Such assistance may include a stipend or reimbursement for costs associated with participation in the program.

''(3) RIGHTS AND BENEFITS.—Scholarship recipients in health professions designated in section 338A of the Public Health Service Act while fulfilling their service requirements shall have all the same rights and benefits of members of the National Health Service Corps during their period of service.

''(4) NO INCLUSION OF ASSISTANCE IN GROSS INCOME.—Financial assistance provided to scholarship recipients for tuition, books and other school-related expenditures under this section shall not be included in gross income for purposes of the Internal Revenue Code of 1986.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 through 2010 for the purpose of funding the scholarship assistance program under subsection (a).

''SEC. 12. REPORT.

''The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to Congress a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Native Hawaiians, and ensure a health status for Native Hawaiians, which are at a parity with the health services available to, and the health status of, the general population.

''SEC. 13. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

''(a) AUTHORITY AND AREAS OF INTEREST.—The Secretary, in consultation with Papa Ola Lokahi, may allocate amounts appropriated under this Act, or any other Act, to carry out Native Hawaiian demonstration projects of national significance. The areas of interest of such projects may include—

''(1) the education of health professionals, and other individuals in institutions of higher learning, in health and allied health programs in complementary healing practices, including Native Hawaiian healing practices;

''(2) the integration of Western medicine with complementary healing practices including traditional Native Hawaiian healing practices;

''(3) the use of tele-wellness and telecommunications in chronic disease management and health promotion and disease prevention;

''(4) the development of appropriate models of health care for Native Hawaiians and other indigenous people including the provision of culturally competent health services, related activities focusing on wellness concepts, the development of appropriate kupuna care programs, and the development of financial mechanisms and collaborative relationships leading to universal access to health care;

''(5) the development of a centralized database and information system relating to the health care status, heath care needs, and wellness of Native Hawaiians; and

''(6) the establishment of a Native Hawaiian Center of Excellence for Nursing at the University of Hawaii at Hilo, a Native Hawaiian Center of Excellence for Mental Health at the University of Hawaii at Manoa, a Native Hawaiian Center of Excellence for Maternal Health and Nutrition at the Waimanalo Health Center, and a Native Hawaiian Center of Excellence for Research, Training, and Integrated Medicine at Molokai General Hospital.

''(b) NONREDUCTION IN OTHER FUNDING.—The allocation of funds for demonstration projects under subsection (a) shall not result in a reduction in funds required by the Native Hawaiian health care systems, the Native Hawaiian Health Scholarship Program, or Papa Ola Lokahi to carry out their respective responsibilities under this Act.

''SEC. 14. NATIONAL BIPARTISAN COMMISSION ON NATIVE HAWAIIAN HEALTH CARE ENTITLEMENT.

''(a) ESTABLISHMENT.—There is hereby established a National Bipartisan Native Hawaiian Health Care Entitlement Commission (referred to in this Act as the 'Commission').

''(b) MEMBERSHIP.—The Commission shall be composed of 21 members to be appointed as follows:

''(1) CONGRESSIONAL MEMBERS.—

''(A) APPOINTMENT.—Eight members of the Commission shall be members of Congress, of which—

''(i) two members shall be from the House of Representatives and shall be appointed by the Majority Leader;

''(ii) two members shall be from the House of Representatives and shall be appointed by the Minority Leader;

''(iii) two members shall be from the Senate and shall be appointed by the Majority Leader; and

''(iv) two members shall be from the Senate and shall be appointed by the Minority Leader.

''(B) RELEVANT COMMITTEE MEMBERSHIP.—The members of the Commission appointed under subparagraph (A) shall each be members of the committees of Congress that consider legislation affecting the provision of health care to Native Hawaiians and other Native American.

''(C) CHAIRPERSON.—The members of the Commission appointed under subparagraph (A) shall elect the chairperson and vice-chairperson of the Commission.

''(2) HAWAIIAN HEALTH MEMBERS.—Eleven members of the Commission shall be appointed by Hawaiian health entities, of which—

''(A) five members shall be appointed by the Native Hawaiian Health Care Systems;

''(B) one member shall be appointed by the Hawaii State Primary Care Association;

''(C) one member shall be appointed by Papa Ola Lokahi;

''(D) one member shall be appointed by the State Council of Hawaiian Homestead Associations;

''(E) one member shall be appointed by the Office of Hawaiian Affairs; and

''(F) two members shall be appointed by the Association of Hawaiian Civic Clubs and shall represent Native Hawaiian populations on the United States continent.

''(3) SECRETARIAL MEMBERS.—Two members of the Commission shall be appointed by the Secretary and shall possess knowledge of the health concerns and wellness issues facing Native Hawaiians.

''(c) TERMS.—

''(1) IN GENERAL.—The members of the Commission shall serve for the life of the Commission.

''(2) INITIAL APPOINTMENT OF MEMBERS.—The members of the Commission shall be appointed under subsection (b)(1) not later than 90 days after the date of enactment of this Act, and the remaining members of the Commission shall be appointed not later than 60 days after the date on which the members are appointed under such subsection (b)(1).

''(3) VACANCIES.—A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

''(d) DUTIES OF THE COMMISSION.—The Commission shall carry out the following duties and functions:

''(1) Review and analyze the recommendations of the report of the study committee established under paragraph (3).

''(2) Make recommendations to Congress for the provision of health services to Native Hawaiian individuals as an entitlement, giving due regard to the effects of a program on existing health care delivery systems for Native Hawaiians and the effect of such programs on self-determination and their reconciliation.

''(3) Establish a study committee to be composed of at least 10 members from the Commission, including 4 members of the members appointed under subsection (b)(1), 5 of the members appointed under subsection (b)(2), and 1 of the members appointed by the Secretary under subsection (b)(3), which shall—

''(A) to the extent necessary to carry out its duties, collect and compile data necessary to understand the extent of Native Hawaiian needs with regards to the provision of health services, including holding hearings and soliciting the views of Native Hawaiians and Native Hawaiian organizations, and which may include authorizing and funding feasibility studies of various models for all Native Hawaiian beneficiaries and their families, including those that live on the United States continent;

''(B) make recommendations to the Commission for legislation that will provide for the culturally-competent and appropriate provision of health services for Native Hawaiians as an entitlement, which shall, at a minimum, address issues of eligibility and benefits to be provided, including recommendations regarding from whom such health services are to be provided and the cost and mechanisms for funding of the health services to be provided;

''(C) determine the effect of the enactment of such recommendations on the existing system of delivery of health services for Native Hawaiians;

''(D) determine the effect of a health service entitlement program for Native Hawaiian individuals on their self-determination and the reconciliation of their relationship with the United States;

''(E) not later than 12 months after the date of the appointment of all members of the Commission, make a written report of its findings and recommendations to the Commission, which report shall include a statement of the minority and majority position of the committee and which shall be disseminated, at a minimum, to Native Hawaiian organizations and agencies and health organizations referred to in subsection (b)(2) for comment to the Commission; and

''(F) report regularly to the full Commission regarding the findings and recommendations developed by the committee in the course of carrying out its duties under this section.

''(4) Not later than 18 months after the date of the appointment of all members of the Commission, submit a written report to Congress containing a recommendation of policies and legislation to implement a policy that would establish a health care system for Native Hawaiians, grounded in their culture, and based on the delivery of health services as an entitlement, together with a determination of the implications of such an entitlement system on existing health care delivery systems for Native Hawaiians and their self-determination and the reconciliation of their relationship with the United States.

''(e) ADMINISTRATIVE PROVISIONS.—

''(1) COMPENSATION AND EXPENSES.—

''(A) CONGRESSIONAL MEMBERS.—Each member of the Commission appointed under subsection (b)(1) shall not receive any additional compensation, allowances, or benefits by reason of their service on the Commission. Such members shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

''(B) OTHER MEMBERS.—The members of the Commission appointed under paragraphs (2) and (3) of subsection (b) shall, while serving on the business of the Commission (including travel time), receive compensation at the per diem equivalent of the rate provided for individuals under level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while serving away from their home or regular place of business, be allowed travel expenses, as authorized by the chairperson of the Commission.

''(C) OTHER PERSONNEL.—For purposes of compensation (other than compensation of the members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the Senate.

''(2) MEETINGS AND QUORUM.—

''(A) MEETINGS.—The Commission shall meet at the call of the chairperson.

''(B) QUORUM.—A quorum of the Commission shall consist of not less than 12 members, of which—

''(i) not less than 4 of such members shall be appointees under subsection (b)(1)l;

''(ii) not less than 7 of such members shall be appointees under subsection (b)(2); and

''(iii) not less than 1 of such members shall be an appointee under subsection (b)(3).

''(3) DIRECTOR AND STAFF.—

''(A) EXECUTIVE DIRECTOR.—The members of the Commission shall appoint an executive director of the Commission. The executive director shall be paid the rate of basic pay equal to that under level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(B) STAFF.—With the approval of the Commission, the executive director may appoint such personnel as the executive director deems appropriate.

''(C) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

''(D) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the executive director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(E) FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operations of the Commission in the State of Hawaii. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

''(f) POWERS.—

''(1) HEARINGS AND OTHER ACTIVITIES.—For purposes of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties, except that at least 8 hearings shall be held on each of the Hawaiian Islands and 3 hearings in the continental United States in areas where large numbers of Native Hawaiians are present. Such hearings shall be held to solicit the views of Native Hawaiians regarding the delivery of health care services to such individuals. To constitute a hearing under this paragraph, at least 4 members of the Commission, including at least 1 member of Congress, must be present. Hearings held by the study committee established under subsection (d)(3) may be counted towards the number of hearings required under this paragraph.

''(2) STUDIES BY THE GENERAL ACCOUNTING OFFICE.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

''(3) COST ESTIMATES.—

''(A) IN GENERAL.—The Director of the Congressional Budget Office or the Chief Actuary of the Health Care Financing Administration, or both, shall provide to the Commission, upon the request of the Commission, such cost estimates as the Commission determines to be necessary to carry out its duties.

''(B) REIMBURSEMENTS.—The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

''(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employees.

''(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of any Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

''(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

''(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

''(8) SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''(9) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of Congress.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,500,000 to carry out this section. The amount appropriated under this subsection shall not result in a reduction in any other appropriation for health care or health services for Native Hawaiians.

''SEC. 15. RULE OF CONSTRUCTION.

''Nothing in this Act shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

''SEC. 16. COMPLIANCE WITH BUDGET ACT.

''Any new spending authority (described in subparagraph (A) of (B) of section 401(c)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2)(A) or (B))) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided for in appropriation Acts.

''SEC. 17. SEVERABILITY.

''If any provision of this Act, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.''.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 1931. A bill to provide a more just and uniform procedure for Federal civil forfeitures, and for other purposes; to the Committee on the Judiciary.

CIVIL ASSET FORFEITURE REFORM ACT

Mr. HATCH. Mr. President, today Senator LEAHY and I are introducing a civil asset forfeiture reform bill.

First and foremost, I want to emphasize that civil asset forfeiture is an important tool in America's fight against crime and drugs. Last year, the federal government seized nearly $500 million in assets. It is vitally important that the fruits of crime and the property used to commit crimes are forfeited to the government. In recent years, however, there have been numerous examples of civil asset forfeiture actions that should not have been taken. While the vast majority of civil asset forfeiture actions are justified, there have been cases in which government officials did not use good judgment. Some would even say that civil asset forfeiture has been abused in some instances by overzealous law enforcement officials.

I will mention just a few examples of such imprudent civil forfeiture actions. In *United States* v. *$506,231*, 125 F.3d 442 (7th Cir. 1997), the court dismissed a forfeiture action involving $506,231 and scolded the government for its conduct. In this case, state authorities obtained a warrant to search a pizzeria for stolen goods. During the search of the restaurant, authorities did not find any stolen goods, but they did discover a large amount of currency. Criminal charges were not filed against the owners of the restaurant. Nevertheless, alleging that the currency was related to narcotics, the federal government filed a civil complaint for forfeiture of the $506,231.

Four years after the money was seized, the court dismissed the forfeiture complaint and returned the currency to its owner. The court found that the evidence ''does not come close to showing any connection between the money and narcotics,'' that ''there is no evidence that drug trafficking was going on at the pizzeria,'' and that ''nothing ties this money to any narcotics activities that the government knew about or charged, or to any crime that was occurring when the government attempted to seize the property.'' At the conclusion of the case, the court stated that ''we believe the government's conduct in forfeiture cases leaves much to be desired.''

Even more disturbing is *United States* v. *$14,665*, 33 F. Supp. 2d 47 (D. Mass. 1998). In this case, airline officials informed the police that a passenger, Manuel Espinola, was carrying a large amount of currency in a briefcase. The police questioned Espinola about the $14,665 in cash. Espinola, a 23-year-old man who purchased the plane ticket in his own name, told the police that he and his brother earned the money selling personal care products for a company called Equinox International. When the police asked Espinola what the money was going to be used for, he stated that he was planning to move to Las Vegas and intended to use the cash as a down payment on a home. Espinola told police that he did not deposit the currency in a bank because he was afraid that it might be attached due to a prior credit problem. Espinola also gave the police a pager number of a co-worker who he said could verify his employment and his plans in Las Vegas.

Based on Espinola's explanation, the police officer seized the money because the officer believed it was related to purchase narcotics. The officer did not arrest Espinola, who had no criminal record.

After the seizure, in an attempt to get his money back, Espinola submitted documents that largely confirmed his explanation of the currency, including receipts for personal care products from Equinox International and copies of a settlement check from a personal injury claim. By contrast, the government offered no additional evidence that the currency was related to drugs and was subject to forfeiture.

The court granted summary judgment to Espinola and, in its order, harshly criticized the forfeiture action. The court stated: ''Even in the byzantine world of forfeiture law, this case is an example of overreaching. The government's showing of probable cause is completely inadequate, based on a troubling mix of baseless generalizations, leaps of logic or worse, blatant ethnic stereotyping.'' Nearly two years after the police seized his money without any evidence it was related to narcotics, the court returned the currency to Espinola.

Other federal courts have also criticized federal civil forfeiture actions. For example, in 1992, the Second Circuit Court of Appeals stated: ''We continue to be enormously troubled by the government's increasing and virtually unchecked use of the civil forfeiture statutes and the disregard for due process that is buried in those statutes.''

While I believe that these and other cases prove the need for some reform of civil asset forfeiture law, I want to take this opportunity to praise federal law enforcement officials. Federal law enforcement does an outstanding job fighting crime under the most difficult circumstances. In short, Mr. President, I believe that the problems with civil asset forfeiture have much more to do with defects in the law than with the character or competency of federal law enforcement officials. Senator LEAHY and I drafted this bill to improve civil asset forfeiture law and ensure the continued use of civil asset forfeiture in appropriate cases.

The Hatch-Leahy bill makes important improvements to existing law. I will describe a few of these improvements today. The first major reform places the burden of proof in civil asset forfeiture cases on the government throughout the proceeding. Under current law, the government is only required to make an initial showing of probable cause that the property is connected to criminal activity and is thus subject to forfeiture. After the government makes this modest showing, the burden then shifts to the property owner to prove that the property was not involved in criminal activity. Not surprisingly, the fact that the property owner bears the burden of proving the property is not subject to forfeiture has been extensively criticized by the federal judiciary and numerous legal commentators. As one federal court that has been particularly critical of civil asset forfeiture noted, placing the burden of proof on the property owner is a ''constitutional anomaly.'' *United States* v. *$49,576*, 116 F.3d 425 (9th. Cir. 1997). The court in *$49,576* even questioned whether requiring a property owner to bear the burden of proof in a civil forfeiture action is constitutional: ''We would find it surprising were the Constitution to permit such an important decision to turn on a meager burden of proof like probable cause.''

I, too, believe that placing the burden of proof on the property owner contradicts our nation's traditional notions of justice and fairness. Under the Hatch-Leahy bill, the government will have the burden in civil forfeiture actions to prove by the preponderance of the evidence that the property is connected with criminal activity and is subject to forfeiture.

Another major reform in the Hatch-Leahy bill involves what is known as the cost bond. Under current civil forfeiture law, a property owner must post a cost bond of the lessor of $5,000 or 10 percent of the value of the property seized in order to contest a seizure of property. It is important to note that the cost bond merely allows the property owner to contest the forfeiture. It does not entitle the property owner to the return of the property pending trial.

I believe that it is fundamentally unfair to require a person to post a bond in order to be allowed to contest the seizure of property. For example, what if the government required persons who were indicted to post a bond to contest the indictment? Such a requirement would be unconstitutional under the Sixth Amendment. I believe that requiring a property owner to post a bond to contest the seizure of property is no less objectionable. Such a requirement, Mr. President, seems un-American. The framers of our Constitution would be appalled to know that the federal government, after seizing private property, required the property owner to post a bond in order to contest the seizure.

The Justice Department argues that the cost bond requirement reduces frivolous claims. To address this concern, the Hatch-Leahy bill requires that a person who challenges a forfeiture must file his claim to the property under oath, subject to penalty of perjury. I predict that eliminating the cost bond will produce, at most, minor inconveniences because persons who file frivolous claims will be deterred by the substantial legal fees and costs incurred in contesting the forfeiture. After all, who is willing to hire counsel and pay other expenses to litigate a frivolous claim, especially when subject to penalty of perjury?

Another reform in the Hatch-Leahy bill addresses the situation in which the government's possession of seized property pending trial causes hardship to the property owner. Under current law, the government maintains possession of seized property pending trial even if it causes hardship to the property owner. A common example of such hardship is where the government seizes an automobile, and the seizure prevents the property owner or members of the property owner's family from getting to and from work pending the forfeiture trial. The Hatch-Leahy bill changes current law to allow, but not require, the court to release property pending trial if the court determines that the hardship to the property owner of continued possession by the government outweighs the risk that the property will be damaged or lost. This is a common sense reform that allows the court to release property in appropriate cases.

Another reform in the Hatch-Leahy bill involves reimbursement of attorney fees. The Hatch-Leahy bill awards attorney fees and costs to property owners who prevail against the government in civil forfeiture cases. The costs of contesting a civil forfeiture of property can be substantial. The award of attorney fees and costs to property owners who prevail against the government in civil forfeiture cases is justified because unlike criminal forfeiture actions, the property owner is not charged with a crime. Instead, the government proceeds ''in rem'' against the property. Given that the government does not sue or indict the property owner, it is unfair for the property owner to have to incur attorney fees and costs when the government does not prevail in civil forfeiture actions.

The award of attorney fees is also justified because the government only has to prove its case against the property by a preponderance of the evidence. By contrast, the government must prove beyond a reasonable doubt that property is subject to forfeiture in

criminal forfeiture actions. If the government decides to pursue a civil forfeiture action instead of the more difficult to prove criminal forfeiture action, it should be obligated to pay the attorney fees and costs of the property owner when the property owner prevails.

Mr. President, I would like to emphasize that while the Hatch-Leahy Civil Asset Forfeiture Reform Act contains important reforms; it retains civil forfeiture as an important tool for law enforcement. In fact, the Hatch-Leahy bill is a cautious, responsible reform. Some would even argue that this bill is too modest.

A comparison of the reforms enacted by the State of California in 1993 is instructive. For example, California changed its civil forfeiture law to require the government to prove beyond a reasonable doubt and achieve a related criminal conviction in most civil asset forfeiture cases. The exception to this rule in California involves seizures of currency in excess of $25,000. In these cases, the State must prove the currency is subject to forfeiture by clear and convincing evidence. Also, California abolished the cost bond in civil forfeiture cases.

In short, California's reforms go far beyond anything in the Hatch-Leahy bill, but these reforms have not undermined civil asset forfeiture as a law enforcement tool. The modest reforms in the Hatch-Leahy bill will add much needed protections for property owners at no significant costs to law enforcement. By making these needed reforms, the Hatch-Leahy bill will preserve civil forfeiture as a law enforcement tool for the future.

Lastly, I would like to thank Senator LEAHY and his staff for their tireless effort on this legislation. Senator LEAHY has been an advocate for civil asset forfeiture reform for many years. He is one of the leading champions of civil liberties in the Senate. This legislation would not have occurred without his interest and persistence, and I thank him for his efforts.

I ask unanimous consent that the bill and a section-by-section summary of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Civil Asset Forfeiture Reform Act''.

SEC. 2. CREATION OF GENERAL RULES RELATING TO CIVIL FORFEITURE PROCEEDINGS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by inserting after section 981 the following:

''§ 981A. General rules for civil forfeiture proceedings

''(a) NOTICE; CLAIM; COMPLAINT.—(1)(A)(i) Except as provided in clauses (ii) and (iii), in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the Government must send written notice to interested parties, such notice shall be sent in a manner to achieve proper service as soon as practicable, and in no case more than 60 days after the date of the seizure.

''(ii) In a case in which the property is seized by a State or local law enforcement agency and turned over to a Federal law enforcement agency for the purpose of forfeiture under Federal law, notice shall be sent no more than 90 days after the date of seizure by the State or local law enforcement agency.

''(iii) If the identity or interest of a party is not determined until after the seizure or turnover but is determined before a declaration of forfeiture is entered, notice shall be sent to such interested party not later than 60 days after the determination by the Government of the identity of the party or the party's interest.

''(B) A court shall extend the period for sending notice under subparagraph (A) for a period not to exceed 60 days (which period may be further extended), if the court determines, based on a written ex parte certification of a supervisory official of the seizing agency, that there is reason to believe that notice may have an adverse result, including—

''(i) endangering the life or physical safety of an individual;

''(ii) flight from prosecution;

''(iii) destruction of or tampering with evidence;

''(iv) intimidation of potential witnesses; or

''(v) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

''(C) If the Government does not send notice of a seizure of property in accordance with subparagraph (A) to the person from whom the property was seized, and no extension of time is granted, the Government shall return the property to that person without prejudice to the right of the Government to commence a forfeiture proceeding at a later time.

''(2)(A) Any person claiming property seized in a nonjudicial forfeiture proceeding may file a claim with the appropriate official after the seizure.

''(B) A claim under subparagraph (A) may be filed not later than the deadline set forth in a personal notice letter, except that if that letter is not received, then a claim may be filed not later than 30 days after the date of final publication of notice of seizure.

''(C) The claim shall state the claimant's interest in the property and be made under oath, subject to penalty of perjury. The seizing agency shall make claim forms generally available on request.

''(D) Any person may make a claim under subparagraph (A) without posting bond with respect to the property which is the subject of the claim.

''(3)(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

''(B) If the Government does not file a complaint for forfeiture or return the property, in accordance with subparagraph (A), it shall return the property and may not take any further action to effect the civil forfeiture of such property.

''(C) In lieu of, or in addition to, filing a civil forfeiture complaint, the Government may include a forfeiture allegation in a criminal indictment. In such case, the Government's right to continued possession of the property shall be governed by the applicable criminal forfeiture statute.

''(D) No complaint may be dismissed on the ground that the Government did not have adequate evidence at the time the complaint was filed to establish the forfeitability of the property by a preponderance of the evidence.

''(4)(A) In any case in which the Government files in the appropriate United States district court a complaint for forfeiture of property, any person claiming an interest in the seized property may file a claim asserting such person's interest in the property in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims, except that such claim may be filed not later than 30 days after the date of service of the Government's complaint or, as applicable, not later than 30 days after the date of final publication of notice of the filing of the complaint.

''(B) A person asserting an interest in seized property, in accordance with subparagraph (A), shall file an answer to the Government's complaint for forfeiture not later than 20 days after the date of the filing of the claim.

''(b) APPOINTMENT OF COUNSEL.—(1) If—

''(A) a person in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel; and

''(B)(i) the property subject to forfeiture is real property that is being used by the person as a primary residence; or

''(ii) the person is represented by counsel appointed under section 3006A of this title in connection with a related criminal case;

the court may appoint or authorize counsel to represent that person with respect to the claim, as appropriate.

''(2) In determining whether to appoint or authorize counsel to represent a person asserting a claim under this subsection, the court shall take into account such factors as—

''(A) the person's standing to contest the forfeiture; and

''(B) whether the claim appears to be made in good faith.

''(3) The court shall set the compensation for representation under this subsection, which shall be equivalent to that provided for court-appointed representation under section 3006A of this title.

''(c) BURDEN OF PROOF.—In all suits or actions brought under any civil forfeiture statute for the civil forfeiture of any property, the burden of proof is on the Government to establish, by a preponderance of the evidence, that the property is subject to forfeiture. The Government may use evidence gathered after the filing of a complaint for forfeiture to establish, by a preponderance of the evidence, that property is subject to forfeiture.

''(d) INNOCENT OWNER DEFENSE.—(1) An innocent owner's interest in property shall not be forfeited under any civil forfeiture statute. The claimant shall have the burden of proving that he is an innocent owner by a preponderance of the evidence.

''(2)(A) With respect to a property interest in existence at the time the illegal conduct giving rise to forfeiture took place, the term 'innocent owner' means an owner who—

''(i) did not know of the conduct giving rise to forfeiture; or

''(ii) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

''(B)(i) For the purposes of this paragraph, ways in which a person may show that such person did all that reasonably could be expected may include demonstrating that such person, to the extent permitted by law—

''(I) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or has occurred; and

''(II) in a timely fashion revoked or attempted to revoke permission for those engaging in such conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

''(ii) A person is not required by this subparagraph to take steps that the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

''(3)(A) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term 'innocent owner' means a person who, at the time that person acquired the interest in the property—

''(i) was a bona fide purchaser or seller for value (including a purchaser or seller of goods or services for value); and

''(ii) did not know and was reasonably without cause to believe that the property was subject to forfeiture.

''(B) An otherwise valid claim under subparagraph (A) shall not be denied on the ground that the claimant gave nothing of value in exchange for the property if—

''(i) the property is the primary residence of the claimant;

''(ii) depriving the claimant of the property would deprive the claimant of the claimant's only means of maintaining adequate shelter in the community for the claimant and all dependents residing with the claimant;

''(iii) the property is not, and is not traceable to, the proceeds of any criminal offense; and

''(iv) the claimant acquired his or her interest in the property through marriage, divorce, or legal separation, or the claimant was the spouse or legal dependent of a person whose death resulted in the transfer of the property to the claimant through inheritance or probate;

except that the court shall limit the value of any real property interest for which innocent ownership is recognized under this subparagraph to the value necessary to maintain adequate shelter in the community for such claimant and all dependents residing with the claimant.

''(4) Notwithstanding any provision of this subsection, no person may assert an ownership interest under this subsection in contraband or other property that it is illegal to possess.

''(e) MOTION TO SET ASIDE FORFEITURE.—(1) Any person entitled to written notice in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute who does not receive such notice may file a motion to set aside a declaration of forfeiture with respect to that person's interest in the property, which motion shall be granted if—

''(A) the Government knew, or reasonably should have known, of the moving party's interest and failed to take reasonable steps to provide such party with notice; and

''(B) the moving party did not know or have reason to know of the seizure within sufficient time to file a timely claim.

''(2) If the court grants a motion under paragraph (1), the court shall set aside the declaration of forfeiture as to the interest of the moving party without prejudice to the right of the Government to commence a subsequent forfeiture proceeding as to the interest of the moving party, which proceeding shall be instituted within 60 days of the entry of the order granting the motion.

''(3) A motion under paragraph (1) may be filed not later than 6 years after the date that the claimant discovered or had reason to discover that the property was forfeited, subject to the doctrine of laches, except that no motion may be filed more than 11 years after the date that the Government's forfeiture cause of action accrued.

''(f) RELEASE OF SEIZED PROPERTY.—(1) A claimant under subsection (a) is entitled to immediate release of seized property if—

''(A) the claimant has a possessory interest in the property;

''(B) the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of the trial;

''(C) the continued possession by the Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless;

''(D) the claimant's likely hardship from the continued possession by the Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceeding; and

''(E) none of the conditions set forth in paragraph (7) applies.

''(2) A claimant seeking release of property under this subsection must request possession of the property from the appropriate official, and the request must set forth the basis on which the requirements of paragraph (1) are met.

''(3) If not later than 10 days after the date of a request under paragraph (2) the property has not been released, the claimant may file a motion or complaint in the district court in which the complaint has been filed or, if no complaint has been filed, any district court that would have jurisdiction of forfeiture proceedings relating to the property, setting forth—

''(A) the basis on which the requirements of paragraph (1) are met; and

''(B) the steps the claimant has taken to secure release of the property from the appropriate official.

''(4) The court shall render a decision on a motion or complaint filed under paragraph (3) no later than 30 days after the date of the filing, unless such 30-day limitation is extended by consent of the parties or by the court for good cause shown.

''(5) If—

''(A) a motion or complaint is filed under paragraph (3); and

''(B) the claimant demonstrates that the requirements of paragraph (1) have been met;

the district court shall order that the property be returned to the claimant, pending completion of proceedings by the Government to obtain forfeiture of the property.

''(6) If the court grants a motion or complaint under paragraph (3)—

''(A) the court may enter any order necessary to ensure that the value of the property is maintained while the forfeiture action is pending, including—

''(i) permitting the inspection, photographing, and inventory of the property;

''(ii) fixing a bond in accordance with rule E(5) of the Supplemental Rules for Certain Admiralty and Maritime Claims; and

''(iii) requiring the claimant to obtain or maintain insurance on the subject property; and

''(B) the Government may place a lien against the property or file a lis pendens to ensure that the property is not transferred to another person.

''(7) This subsection shall not apply if the seized property—

''(A) is contraband, currency or other monetary instrument, or electronic funds unless such currency or other monetary instrument or electronic funds constitutes the assets of a legitimate business which has been seized;

''(B) is to be used as evidence of a violation of the law;

''(C) by reason of design or other characteristic, is particularly suited for use in illegal activities; or

''(D) is likely to be used to commit additional criminal acts if returned to the claimant.

''(g) PROPORTIONALITY.—The claimant may petition the court to determine whether the forfeiture was constitutionally excessive. In making this determination, the court shall compare the forfeiture to the gravity of the offense giving rise to the forfeiture. If the court finds that the forfeiture is grossly disproportional to the offense it shall reduce or eliminate the forfeiture as necessary. The claimant shall have the burden of establishing that the forfeiture is grossly disproportional by a preponderance of the evidence at a hearing conducted by the court without a jury.

''(h) DEFINITIONS.—In this section:

''(1)(A) Except as provided in subparagraph (B), the term 'civil forfeiture statute' means any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense.

''(B) The term 'civil forfeiture statute' does not include—

''(i) the Tariff Act of 1930 or any other provision of law codified in title 19;

''(ii) the Internal Revenue Code of 1986;

''(iii) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

''(iv) the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.); or

''(v) section 1 of title VI of the Act of June 15, 1917 (40 Stat. 233; 22 U.S.C. 401).

''(2)(A) The term 'owner' means a person with an ownership interest in the specific property sought to be forfeited, including a leasehold, lien, mortgage, recorded security interest, or valid assignment of an ownership interest.

''(B) The term 'owner' does not include—

''(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

''(ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or

''(iii) a nominee who exercises no dominion or control over the property.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 46 of title 18, United States Code, is amended by inserting after the item relating to section 981 the following:

''981A. General rules for civil forfeiture proceedings.''.

SEC. 3. COMPENSATION FOR DAMAGE TO SEIZED PROPERTY.

(a) TORT CLAIMS ACT.—Section 2680(c) of title 28, United States Code, is amended—

(1) by striking ''any goods or merchandise'' and inserting ''any goods, merchandise, or other property'';

(2) by striking ''law-enforcement'' and inserting ''law enforcement''; and

(3) by inserting before the period at the end the following: '', except that the provisions of this chapter and section 1346(b) of this title apply to any claim based on injury or loss of goods, merchandise, or other property, while in the possession of any officer of customs or excise or any other law enforcement officer, if—

''(1) the property was seized for the purpose of forfeiture under any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense;

''(2) the interest of the claimant is not forfeited; and

''(3) the claimant is not convicted of a crime for which the interest of the claimant in the property would be subject to forfeiture under a Federal criminal forfeiture law.''.

(b) DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—With respect to a claim that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2680(h) of title 28, United States Code) who is employed by the Department of Justice acting within the scope of his or her employment.

(2) LIMITATIONS.—The Attorney General may not pay a claim under paragraph (1) that—

(A) is presented to the Attorney General more than 1 year after it occurs; or

(B) is presented by an officer or employee of the Federal Government and arose within the scope of employment.

SEC. 4. ATTORNEY FEES, COSTS, AND INTEREST.

(a) IN GENERAL.—Section 2465 of title 28, United States Code, is amended to read as follows:

''§ 2465. Return of property to claimant; liability for wrongful seizure; attorney fees, costs, and interest

''(a) Upon the entry of a judgment for the claimant in any proceeding to condemn or forfeit property seized or arrested under any provision of Federal law—

''(1) such property shall be returned forthwith to the claimant or his agent; and

''(2) if it appears that there was reasonable cause for the seizure or arrest, the court shall cause a proper certificate thereof to be entered and, in such case, neither the person who made the seizure or arrest nor the prosecutor shall be liable to suit or judgment on account of such suit or prosecution, nor shall the claimant be entitled to costs, except as provided in subsection (b).

''(b)(1) Except as provided in paragraph (2), in any civil proceeding to forfeit property under any provision of Federal law in which the claimant substantially prevails, the United States shall be liable for—

''(A) reasonable attorney fees and other litigation costs reasonably incurred by the claimant;

''(B) post-judgment interest, as set forth in section 1961 of this title; and

''(C) in cases involving currency, other negotiable instruments, or the proceeds of an interlocutory sale—

''(i) interest actually paid to the United States from the date of seizure or arrest of the property that resulted from the investment of the property in an interest-bearing account or instrument; and

''(ii) an imputed amount of interest that such currency, instruments, or proceeds would have earned at the rate described in section 1961, for any period during which no interest was paid (not including any period when the property reasonably was in use as evidence in an official proceeding or in conducting scientific tests for the purpose of collecting evidence).

''(2)(A) The United States shall not be required to disgorge the value of any intangible benefits nor make any other payments to the claimant not specifically authorized by this subsection.

''(B) The provisions of paragraph (1) shall not apply if the claimant is convicted of a crime for which the interest of the claimant in the property would be subject to forfeiture under a Federal criminal forfeiture law.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by striking the item relating to section 2465 and inserting following:

''2465. Return of property to claimant; liability for wrongful seizure; attorney fees, costs, and interest.''.

SEC. 5. SEIZURE WARRANT REQUIREMENT.

(a) IN GENERAL.—Section 981(b) of title 18, United States Code, is amended to read as follows:

''(b)(1) Except as provided in section 985, any property subject to forfeiture to the United States under subsection (a) may be seized by the Attorney General and, in the case of property involved in a violation investigated by the Secretary of the Treasury or the United States Postal Service, the property may also be seized by the Secretary of the Treasury or the Postal Service, respectively.

''(2) Seizures pursuant to this section shall be made pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure, except that a seizure may be made without a warrant if—

''(A) a complaint for forfeiture based on probable cause has been filed in the United States district court and the court has issued an arrest warrant in rem pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims;

''(B) there is probable cause to believe that the property is subject to forfeiture and—

''(i) the seizure is made pursuant to a lawful arrest or search; or

''(ii) another exception to the Fourth Amendment warrant requirement would apply; or

''(C) the property was lawfully seized by a State or local law enforcement agency and has been transferred to a Federal agency in accordance with State law.

''(3) Notwithstanding the provisions of rule 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued pursuant to this subsection by a judicial officer in any district in which a forfeiture action against the property may be filed under section 1355(b) of title 28, and executed in any district in which the property is found.''.

(b) DRUG FORFEITURES.—Section 511(b) of the Controlled Substances Act (21 U.S.C. 881(b)) is amended to read as follows:

''(b) SEIZURE PROCEDURES.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General in the manner set forth in section 981(b) of title 18, United States Code.''.

SEC. 6. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS.

Section 981(e) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

''(6) as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity; or''.

SEC. 7. CIVIL FORFEITURE OF REAL PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by inserting after section 984 the following:

''§ 985. Civil forfeiture of real property

''(a) Notwithstanding any other provision of law, all civil forfeitures of real property and interests in real property shall proceed as judicial forfeitures.

''(b)(1) Except as provided in this section—

''(A) real property that is the subject of a civil forfeiture action shall not be seized before entry of an order of forfeiture; and

''(B) the owners or occupants of the real property shall not be evicted from, or otherwise deprived of the use and enjoyment of, real property that is the subject of a pending forfeiture action.

''(2) The filing of a lis pendens and the execution of a writ of entry for the purpose of conducting an inspection and inventory of the property shall not be considered a seizure under this subsection.

''(c)(1) The Government shall initiate a civil forfeiture action against real property by—

''(A) filing a complaint for forfeiture;

''(B) posting a notice of the complaint on the property; and

''(C) serving notice on the property owner, along with a copy of the complaint.

''(2) If the property owner cannot be served with the notice under paragraph (1) because the owner—

''(A) is a fugitive;

''(B) resides outside the United States and efforts at service pursuant to Rule 4 of the Federal Rules of Civil Procedure are unavailing; or

''(C) cannot be located despite the exercise of due diligence,

constructive service may be made in accordance with the laws of the State in which the property is located.

''(3) If real property has been posted in accordance with this subsection, it shall not be necessary for the court to issue an arrest warrant in rem, or to take any other action to establish in rem jurisdiction over the property.

''(d) Real property may be seized prior to the entry of an order of forfeiture if—

''(1) the Government notifies the court that it intends to seize the property before trial; and

''(2) the court—

''(A) issues a notice of application for warrant, causes the notice to be served on the property owner and posted on the property, and conducts a hearing to determine if there is probable cause for the forfeiture; or

''(B) makes an ex parte determination that there is probable cause for the forfeiture and that there are exigent circumstances that permit the government to seize the property without prior notice and an opportunity for the property owner to be heard.

For purposes of paragraph (2)(B), to establish exigent circumstances, the Government shall show that less restrictive measures such as a lis pendens, restraining order, or bond would not suffice to protect the Government's interests in preventing the sale, destruction, or continued unlawful use of the real property.

''(e) If the court authorizes a seizure of real property under subsection (d)(2), it shall conduct a prompt post-seizure hearing during which the property owner shall have an opportunity to contest the basis for the seizure.

''(f) This section—

''(1) applies only to civil forfeitures of real property and interests in real property;

''(2) does not apply to forfeitures of the proceeds of the sale of such property or interests, or of money or other assets intended to be used to acquire such property or interests; and

''(3) shall not affect the authority of the court to enter a restraining order relating to real property.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 46 of title 18, United States Code, is amended by inserting after the item relating to section 984 the following:

''985. Civil forfeiture of real property.''.

SEC. 8. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any forfeiture proceeding commenced on or after the date of enactment of this Act.

HATCH/LEAHY CIVIL ASSET FORFEITURE REFORM ACT—SECTION-BY-SECTION SUMMARY

OVERVIEW

The Hatch/Leahy Civil Asset Forfeiture Reform Act would provide a more uniform procedure for federal civil asset forfeitures while increasing the due process safeguards for property owners. Among other things, the bill (1) places the burden of proof in civil forfeiture proceedings upon the government, by a preponderance of the evidence; (2) allows for the provision of counsel to indigent claimants where the property at issue is the claimant's primary residence, and where the claimant is represented by court-appointed counsel in connection with a related criminal case; (3) requires the government to pay attorney fees, costs and interest in any civil forfeiture proceeding in which the claimant substantially prevails; (4) eliminates the cost bond requirement; (5) creates a uniform innocent owner defense; (6) allows property owners more time to challenge a seizure; (7) codifies existing practice with respect to Eighth Amendment proportionality review and seizures of real property; (8) permits the pre-adjudication return of property to owners upon a showing of hardship; and (9) allows property owners to sue the government for any damage to their property.

SECTION-BY-SECTION SUMMARY

SEC. 2. CREATION OF GENERAL RULES RELATING TO CIVIL FORFEITURE PROCEEDINGS.

Creates a new section in federal criminal code (18 U.S.C. §981A) that establishes general rules for virtually all proceedings under a federal civil forfeiture statute.

Notice; claim; complaint. Subsection (a) establishes general procedures and deadlines for initiating civil forfeiture proceedings.

Paragraph (1) provides that, in general, a Federal law enforcement agency has 60 days to send notice of a seizure of property. A court shall extend the period for sending notice for 60 days upon written ex parte certification by the seizing agency that notice may have an adverse result. If the government fails to send notice, it must return the property, without prejudice to the right of the Government to commence a forfeiture proceeding at a later time.

Paragraph (2) allows property owners more time to challenge a seizure. Any person claiming an interest in seized property may file a claim not later than the deadline set forth in a personal notice letter, except that if such letter is not received, then a claim may be filed not later than 30 days after the date of final publication of notice of seizure. Claims shall be made under oath, subject to penalty of perjury. No cost bond need be posted.

Paragraph (3) allows the government 90 days after a claim has been filed to file a complaint for forfeiture or return the property, except that a court may extend the time for filing a complaint for good cause shown or upon agreement of the parties. If the government does not comply with this rule, it may not take further action to effect forfeiture of the property.

Paragraph (4) provides that any person claiming an interest in seized property must file a claim in court not later than 30 days after service of the government's complaint or, where applicable, not later than 30 days after final publication of notice of seizure. A claimant must file an answer to the government's complaint within 20 days of the filing of such claim.

Appointment of counsel. Subsection (b) permits a court to appoint counsel to represent an indigent claimant in a judicial civil forfeiture proceeding if the property subject to forfeiture is real property used by the claimant as a primary residence, or the claimant is already represented by a court-appointed attorney in connection with a related Federal criminal case.

Burden of proof. Subsection (c) shifts the burden of proof in civil asset forfeiture cases to the government, by a preponderance of the evidence. It also makes clear that the government may use evidence gathered after the filing of a complaint to meet that burden of proof.

Innocent owner. Subsection (d) codifies a uniform innocent owner defense. With respect to a property interest in existence at the time the illegal conduct giving rise to forfeiture took place, ''innocent owner'' means an owner who did not know of the conduct giving rise to forfeiture or who, upon learning of such conduct, did all that reasonably could be expected under the circumstances to terminate such use of the property. With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, ''innocent owner'' means a person who, at the time that person acquired the interest in property, was a bona fide purchaser or seller for value and reasonably without cause to believe that the property was subject to forfeiture or, in limited circumstances involving a principal residence, a spouse or legal dependent.

Motion to set aside declaration of forfeiture. Subsection (e) provides that a person who was entitled to notice of a nonjudicial civil forfeiture who did not receive such notice may file a motion to set aside a declaration of forfeiture with respect to his or her interest in the property. This subsection codifies current case law holding that such motion must be filed not later than 6 years after the date that the claimant discovered or had reason to discover that the property was forfeited, but in no event more than 11 years after the government's cause of action in forfeiture accrued. The common law doctrine of laches applies to any motion made under this subsection. If such motion is granted, the government has 60 days to reinstitute proceedings against the property.

Release of property to avoid hardship. Subsection (f) entitles a claimant to immediate release of seized property in certain cases of hardship. Among other things, the claimant must have sufficient ties to the community to provide assurance that the property will be available at the time of the trial, the claimant's likely hardship from such continued possession outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the preceding. Hardship return of property does not apply to contraband, currency, electronic funds, property that is evidence of a crime, property that is specially designed to use in a crime, or any other item likely to be used to commit additional crimes if returned.

Proportionality review. Subsection (g) implements United States v. Bajakajian, 524 U.S. 321 (1998), which held that a punitive forfeiture violates the Excessive Fines Clause of the Eighth Amendment if it is grossly disproportionate to the gravity of the offense.

SEC. 3. COMPENSATION FOR DAMAGE TO SEIZED PROPERTY.

Amends the federal Tort Claims Act to apply to claims based on injury or loss of property while in the possession of the government, if the property was seized for the purpose of forfeiture but the interest of the claimant was not forfeited.

SEC. 4. ATTORNEY FEES, COSTS AND INTEREST.

Amends 28 U.S.C. §2465 to provide that, with limited exceptions, in any civil proceeding to forfeit property in which the claimant substantially prevails, the United States shall be liable for (1) reasonable attorney fees and other litigation costs reasonably incurred by the claimant; (2) post-judgment interest; and (3) in cases involving currency, negotiable instruments, or the proceeds of an interlocutory sale, any interest actually paid to the United States, or imputed interest (except where the property was in use as evidence or for testing).

SEC. 5. SEIZURE WARRANT REQUIREMENT.

Amends 18 U.S.C. §981(b) to require that seizures be made pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure, with limited exceptions.

SEC. 6. CIVIL FORFEITURE OF REAL PROPERTY.

Implements United States v. James Daniel Good Real Property, 510 U.S. 43 (1993), which held that real property may not be seized, except in exigent circumstances, without giving a property owner notice of the proposed seizure and an opportunity for an adversarial hearing. All forfeitures of real property must proceed as judicial forfeitures. Real property may be seized before entry of an order of forfeiture only if notice has been served on the property owner and the court determines that there is probable cause for the forfeiture, or if the court makes an ex parte determination that there is probable cause for the forfeiture and exigent circumstances justify immediate seizure without a pre-seizure hearing.

SEC. 7. APPLICABILITY.

Provides that all changes in the bill apply prospectively.

Mr. LEAHY. Mr. President, asset forfeiture is a powerful crime-fighting tool. It has been a particularly potent weapon in the war on drugs, allowing the government to take the cars and boats and stash houses amassed by drug dealers and put them to honest use. Last year alone, the government was able to seize nearly half a billion dollars worth of assets, cutting a big chunk out of criminals' profit stream and returning it to the law-abiding community.

Unfortunately, our nation's asset forfeiture is not fail-safe; it can be abused. In hearings on this issue, the Judiciary Committee has heard examples of what happens when prosecutorial zeal skirts the boundaries of due process, leading to the taking of private property regardless of whether the owner is innocent of, or even cognizant of, the property's use in an illegal act.

In recent years, our nation's asset forfeiture system has drawn increasing and exceedingly sharp criticism from scholars and commentators. Federal judges have also added their voices to the growing chorus of concern. In 1992, the Second Circuit Court of Appeals stated, ''We continue to be enormously troubled by the government's increasing and virtually unchecked use of the civil forfeiture statutes and the disregard for due process that is buried in those statutes.'' Four years later, the Eighth Circuit rebuked the government for capitalizing on the claimants' confusion to forfeit over $70,000 of their currency, and expressed alarm that:

the war on drugs has brought us to the point where the government may seize . . . a citizen's property without any initial showing of cause, and put the onus on the citizen to perfectly navigate the bureaucratic labyrinth in order to liberate what is presumptively his or hers in the first place. . . .

Should the citizen prove inept, the government may keep the property, without ever having to justify or explain its actions.

Similarly, the Seventh Circuit recently expressed its belief that ''the government's conduct in forfeiture cases leaves much to be desired,'' and ordered the return of over $500,000 in currency that had been improperly seized from a Chicago pizzeria.

Civil asset forfeiture rests upon the medieval notion that property is somehow guilty when it causes harm to another. The notion of ''guilty property'' is what enables the government to seize property regardless of the guilt or innocence of the property owner. In many asset forfeiture cases, the person whose property is taken is never charged with any crime.

The ''guilty property'' notion also explains the topsy-turvy nature of today's civil forfeiture proceedings, in which the property owner—not the government—bears the burden of proof. Under current law, all the government must do is make an initial showing of probable cause that the property is ''guilty'' and subject to forfeiture; it is then up to the property owner to prove a negative—that the property was not involved in any wrongdoing.

It is time to reexamine the obsolete underpinnings of our civil forfeiture laws and bring these laws in line with more modern principles of due process and fair play. We must be especially careful to ensure that innocent property owners are adequately protected.

The Hatch-Leahy Civil Asset Forfeiture Reform Act provides greater safeguards for individuals whose property has been seized by the government. It incorporates all of the core reforms of H.R. 1658, which passed the House of Representatives in June by an overwhelming bipartisan majority. The Hatch-Leahy bill also includes a number of additional reforms which, among other things, establish a fair and uniform procedure for forfeiting real property, and entitle property owners to challenge a forfeiture as constitutionally excessive.

During our hearing this year on civil asset forfeiture reform, the Justice Department and other law enforcement organizations expressed concern that some of the reforms included in the House bill would interfere with the government's ability to combat crime. The bill we introduce today addresses the legitimate concerns of law enforcement. In particular, the bill puts the burden of proof on the government by a preponderance of the evidence, and not by clear and convincing evidence. The preponderance standard is used in virtually all other civil cases, and we believe it is sufficient to protect the interests of property owners.

We have also removed provisions in H.R. 1658 that would allow criminals to leave their ill-gotten gains to their heirs, and would bar the government from forfeiting property if it inadvertently sent notice of a seizure to the wrong address. These provisions did little more than create procedural ''gotchas'' for criminals and their heirs, and are neither necessary nor desirable as a matter of policy.

The Hatch-Leahy bill also differs from the House bill in its approach to the issue of appointed counsel. Under H.R. 1658, anyone asserting an interest in seized property could apply for a court-appointed lawyer. There is no demonstrated need for such an unprecedented extension of the right to counsel, nor is there any principled distinction between defendants in civil forfeiture actions and defendants in other federal enforcement actions who are not eligible for court-appointed counsel. Moreover, property owners who are indigent may be eligible to obtain representation through various legal aid clinics.

The Hatch-Leahy bill authorizes courts to appoint counsel for indigent claimants in just two limited circumstances. First, a court may appoint counsel in the handful of forfeiture cases in which the property at issue is the claimant's primary residence. When a forfeiture action can result in a claimant's eviction and homelessness, there is more at stake than just a property interest, and it is fair and just that the claimant be provided with an attorney if she cannot otherwise afford one. Second, if a claimant is already represented by a court-appointed attorney in a related federal criminal case, the court may authorize that attorney to represent the claimant in the civil forfeiture action. This is both fair and efficient, and eliminates any appearance that the government chose to pursue the forfeiture in a civil proceeding rather than as part of the criminal case in order to deprive the claimant of his right to counsel.

For claimants who were not appointed counsel by the court, the Hatch-Leahy bill allows for the recovery of reasonable attorney fees and costs if they substantially prevail in court. The bill also makes the government liable for post-judgment interest on any money judgment, and imputed interest in certain cases involving currency or negotiable instruments.

Another core reform of the Hatch-Leahy bill is the elimination of the so-called ''cost bond.'' Under current law, a property owner that seeks to recover his property after it has been seized by the government must pay for privilege by posting a bond with the court. The government has strongly defended the ''cost bond,'' not as a device for ensuring that its court costs are covered, but as a way of deterring frivolous claims. Of course, we are all in favor of deterring frivolous claims, but there are ways to deter frivolous claims without offending the fundamental principle of equal and open access to the courts, a bedrock of our American system of justice. The Hatch-Leahy bill provides that a person who challenges a forfeiture must file his claim on oath, under penalty of perjury. Claimants also remain subject to the general sanctions for bad faith in instituting or conducting litigation. Further, most claimants will continue to bear the substantial costs of litigating their claims in court. The additional financial burden of the ''cost bond'' serves no legitimate purpose.

Under current law, a property owner has only 20 days from the date of first publication of the notice of seizure to file a claim challenging an administrative forfeiture, and only 10 days to file a claim challenging a judicial forfeiture. It is therefore unlikely that anyone who misses the first of three published notices will be able to file a timely claim. The Hatch-Leahy bill extends the property owner's time to file a claim following administrative and judicial forfeiture actions to 30 days. The bill also codifies current Department of Justice policy with respect to the time period for sending notice of seizure, and establishes a 90-day period for filing a complaint. The bill leaves undisturbed current laws and procedures with respect to the proper form and content of notices, claims and complaints.

Finally, the Hatch-Leahy bill will allow property owners to hold on to their property while a case in process, if they can show that continued possession of the government will cause substantial hardship to the owner, such as preventing him from working, and that this hardship outweighs the risk that the property will be destroyed or concealed if returned to the owner during the pendency of the case. Unlike H.R. 1658, the Hatch-Leahy bill adopts the primary safeguards that the Justice Department wanted added to the provision—that property owners must have sufficient ties to the community to provide assurance that the property will not disappear and that certain property, such as currency and property particularly suited for use in illegal activities, cannot be returned. As amended, the hardship provision in the Hatch-Leahy bill is substantially similar to the hardship provision in another civil asset forfeiture bill, S. 1701, which the Justice Department has endorsed.

The fact is, the Justice Department has endorsed most of the core reforms contained in the Hatch-Leahy bill. Indeed, the Department has already taken administrative steps to remedy many of the civil forfeiture abuses identified in recent years by the federal courts. For this, the Department is to be commended. But administrative policy can be modified on the whim of whoever is in charge, and the law remains susceptible to abuse.

It is time for Congress to catch up with the Justice Department and the courts on this important issue. Due to internecine fighting among law enforcement officials whose views Congress always wants to take into consideration, action on civil forfeiture reform has been delayed for far too long. The Hatch-Leahy bill strikes the appropriate middle ground between the

House bill and S. 1701, providing comprehensive and meaningful reform while ensuring the continued potency of civil asset forfeiture in the war on crime.

Senator HATCH and I share a longstanding and deeply-held appreciation for law enforcement and the officers who work on the front lines to protect our families and communities, and we have worked together on a number of crime-related issues in the past. I want to commend him for his commitment, not just to law enforcement, but to the rights of all Americans. It has been my pleasure to work with him on this issue, to bring balance back in the relationship between our police forces and the citizens of this country.

By Mr. JEFFORDS:

S. 1932. A bill to amend the Ricky Ray Hemophilia Relief Fund Act of 1998 to revise and extend certain provisions; to the Committee on Health, Education, Labor, and Pensions.

THE RICKY RAY FAIRNESS ACT OF 1999

• Mr. JEFFORDS. Mr. President, last year Congress passed and the President signed a significant measure that will, as funds are provided, provide compassionate compensation payments to hundreds of individuals. Public Law 105–369, the Ricky Ray Hemophilia Relief Act of 1998, authorizes payments for hemophiliacs treated with blood products infected with HIV during the 1980s as well as their infected spouses and children. Last year, Mr. President, you and I, and all of our colleagues gave our unanimous consent to this measure because we all knew it was the right thing to do. But we accomplished only part of the job. We provided compassionate compensation to only a portion of the Americans who, through indecisiveness and inaction on the part of federal government, became infected with HIV. So today I am introducing legislation that will set the record straight and finish what needs to be done, and I hope that our colleagues will once again in the name of fairness and compassion give this measure their unanimous support.

I am on the floor today to introduce legislation that will bring much needed fairness to hundreds of our citizens. This bill, the Ricky Ray Fairness Act of 1999 will finally include those people, other than hemophiliacs, who were infected with HIV and contracted AIDS through HIV contaminated blood products or tissues.

The blood crisis of the 1980s resulted in the HIV infection of thousands of Americans who trusted that the blood or blood product with which they were treated was safe. The tragedy of the blood supply's contamination has brought unbearable pain to families all over the country. I have heard from dozens over the past months. These are people like any of us—like our children and our grandchildren—who went to hospitals for standard procedures, emergency care, or were transfused due to complications in childbirth. Many children and adults were secondarily infected: children through childbirth or HIV-infected breast milk and adults through their spouses. Lives were lost and futures were ruined. Not only were there physical and emotional costs, but there exists a tremendous drain on personal finances as a result of lost income and extreme medical expenses. In the minds of these and in the minds of members who advocated for the Ricky Ray bill, the federal government played the determining role in the tragedy.

Mr President, these people were infected with HIV because the federal government failed to protect the blood supply during the mid-1980s when it did not use its regulatory authority to implement a wide range of blood and blood-donor screening options recommended by the Centers for Disease Control and Prevention. Had the federal government taken the recommendations of the CDC, thousands of American men, women and children would not have contracted AIDS through HIV-contaminated blood and blood products.

Sadly, and unfairly, the Ricky Ray Hemophilia Relief Fund Act as passed last year does not include all victims of the blood supply crisis. I feel strongly that the Act must be amended to include compensation for not only hemophiliacs, but also people who received a blood transfusion or blood product in the course of medical treatment. Though it was right for us to pass the Ricky Ray Act last year, it remains an inequity and a tragedy that the federal government did so without including victims of transfusion-associated AIDS.

Unlike a few individuals, most people infected with HIV through blood and blood products have been unable to track the source of their infection; nor have they been able to obtain some judicial relief through the courts. The community hit by this tragedy has found it nearly impossible to make recovery through the courts because of blood shield laws in most states that raise the burden of proof for product liability claims for blood and blood products. In addition, all States have statutes of limitations that prohibit litigation if the suit was not filed within a certain period of time.

I am introducing today what can be the final chapter in our Country's responsibility for not adequately protecting the blood supply during the 1980s. The Ricky Ray Fairness Act of 1999 provides compassionate payments to those infected with HIV contaminated blood, blood components, or human tissues. While the change to include transfusion cases increases the cost of this bill, many have already noted that this bill is not about money, it's about fairness. I urge my colleagues to join me in recognizing the terrible tragedy the blood supply crisis of the 1980s cast upon all of its victims.•

By Mr. DODD (for himself and Mr. BENNETT):

S. 1934. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for business-provided student education and training; to the Committee on Finance.

THE BUSINESSES EDUCATING STUDENTS IN TECHNOLOGY (BEST) ACT

• Mr. DODD. Mr. President, today I rise to introduce legislation with my colleague from Utah, Senator BENNETT, that addresses the serious shortage of students graduating from our nation's colleges and universities with technology-based education and skills.

Technology is reshaping our world at a rapid pace. Competition to meet the needs, wants, and expectations of businesses and consumers has accelerated the rate of technological progress to a level inconceivable even a few years ago. Today, technology is playing an increasingly important role in the lives of every American and is a key ingredient in sustaining America's economic growth. It is the wellspring from which new businesses, high-wage jobs, and a rising quality of life will flow in the 21st century.

This profound technological change, coupled with a period of sustained fiscal discipline in the federal government, has led to an unprecedented period of economic growth in our nation. For the first time in three decades, we are enjoying the prospect of budget surpluses that could total one trillion dollars over the next ten years. We have the lowest unemployment in 29 years. Inflation has fallen to its lowest rate in almost 30 years. Our economy has created 20 million new jobs in the last seven years.

If we want to build on this progress, we must encourage people to develop and use emerging technologies. Technological progress has become the single most important determining factor in sustaining economic growth in our economy. It is estimated that technological innovation has accounted for as much as half the nation's long-term economic growth over the past 50 years and is expected to account for an even higher percentage in the next 50 years.

And yet, there is growing evidence that we are not doing enough to prepare people to make the most of this emerging ''New Economy.'' The explosive growth in the technology industry has resulted in a growing shortage of qualified and educated workers with skills in computer science and other technologically advanced systems. For example, more than 350,000 information technology positions are currently vacant throughout the United States. That is an astounding statistic. While we have managed to erase the budget deficit, our nation faces a rising knowledge deficit that could just as readily impede economic growth.

At this moment, there is little sign that this technology deficit will be erased. The supply of technology-savvy U.S. college graduates appears to be on the wane. In my home state of Connecticut, public and private colleges

combined produced only 297 computer and information science graduates in 1997, a 50 percent decline since 1987. The decline in students receiving engineering degrees is even more troubling. From 1989 to 1999, the number of Connecticut students graduating in this field has decreased by 65 percent.

This trend is not limited to any one state; it is nationwide in scope. The number of graduates receiving bachelor of science degrees in engineering has fallen to a 17-year low of 19.8 percent. Between 1990 and 1996, the number of students obtaining high-tech degrees declined by 5 percent. These are clearly trends that must be reversed if we wish to continue building upon the technological achievements we have already made and ensure that our economy can continue to grow and create jobs to its full potential.

Indeed, at large and mid-sized companies, there is already one vacancy for every 10 information technology jobs, and eight out of 10 companies expect to hire information technology workers in the year ahead. Over the next decade, the Department of Commerce estimates that 1.3 million new jobs will be created for systems analysts, computer engineers, and computer scientists. Moreover, by 2006, nearly half of the U.S. workforce will be employed by industries that are either producers or significant users of technology products and services.

Clearly, we must do more to eliminate this shortage of technologically skilled workers. Some have suggested stop-gap measures such as extending more visas to foreign nationals who possess the skills most in demand here in the United States. More important than steps such as this are efforts to promote technology-based learning among American students. In Connecticut, many businesses are making such efforts. They are establishing scholarships, donating lab equipment and computers, planning curricula, and sending employees into colleges and universities to instruct and help prepare students for technology-based jobs.

For instance, one Connecticut company, the Bayer Corporation, has committed $1.1 million to the University of New Haven over six years to help increase the effectiveness of its science curriculum. This partnership includes the donation of equipment, scholarships, internships, and other efforts that seek to engage students more actively in science and technology.

Another positive example of cooperation between business and academic institutions in Connecticut is the support provided to the biotechnology program at Middlesex Community-Technical College by the Bristol Myers Squibb Pharmaceutical Research Institute and the Curagen Corporation. These companies, too, have established scholarships, donated lab equipment, and encouraged their research scientists to give lectures to students.

While these partnerships do exist in Connecticut, and indeed, across the country, businesses and academic institutions should not be left to tackle alone the challenge of helping students obtain the technological learning and skills they need to succeed in the new century. The Senate has before it the opportunity to assist in this effort, to encourage the growth of innovation and education, and to address the shortage of skilled high-tech workers so vital to our continued technological and economic growth.

That is why I am pleased to have the opportunity today to introduce legislation that will encourage businesses to form partnerships with institutions of higher learning in order to improve technology-based learning so that more of our nation's students will be better prepared to fill the jobs of the 21st century.

The ''Businesses Educating Students in Technology,'' or BEST Act, will give a tax credit to any business that joins with a university, college, or community-technical school to support technology-based educational activities which are directly related to the purpose of that business. The legislation would allow businesses to claim a tax credit for 40 percent of these educational expenses, up to a maximum of $100,000 for any one company.

Mr. President, it is my hope that this tax credit will provide the incentive for more of our country's corporate leaders to take a more active role in the technological education, training, and skill development of our nation's most valuable resource—its students.

If businesses take advantage of this credit, they will help create a larger pool of skilled workers to draw from and, in turn, help our nation foster a better educated population that possesses the knowledge to succeed in the information-based economy of the future.

I hope my colleagues join me and Senator BENNETT in supporting this important legislation. Mr. President, I ask that the text of the legislation be printed in the RECORD.

The bill follows:

S. 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Businesses Educating Students in Technology (BEST) Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Technological progress is the single most important determining factor in sustaining growth in the Nation's economy. It is estimated that technological innovation has accounted for as much as half the Nation's long-term economic growth over the past 50 years and will account for an even higher percentage in the next 50 years.

(2) The number of jobs requiring technological expertise is growing rapidly. For example, it is estimated that 1,300,000 new computer engineers, programmers, and systems analysts will be needed over the next decade in the United States economy. Yet, our Nation's computer science programs are only graduating 25,000 students with bachelor's degrees yearly.

(3) There are more than 350,000 information technology positions currently unfilled throughout the United States, and the number of students graduating from colleges with computer science degrees has declined dramatically.

(4) In order to help alleviate the shortage of graduates with technology-based education and skills, businesses in a number of States have formed partnerships with colleges, universities, community-technical schools, and other institutions of higher learning to give lectures, donate equipment, plan curricula, and perform other activities designed to help students acquire the skills and knowledge needed to fill jobs in technology-based industries.

(5) Congress should encourage these partnerships by providing a tax credit to businesses that enter into them. Such a tax credit will help students obtain the knowledge and skills they need to obtain jobs in technology-based industries which are among the best paying jobs being created in the economy. The credit will also assist businesses in their efforts to develop a more highly-skilled, better trained workforce that can fill the technology jobs such businesses are creating.

SEC. 3. ALLOWANCE OF CREDIT FOR BUSINESS-PROVIDED STUDENT EDUCATION AND TRAINING.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

''SEC. 45D. BUSINESS-PROVIDED STUDENT EDUCATION AND TRAINING.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the business-provided student education and training credit determined under this section for the taxable year is an amount equal to 40 percent of the qualified student education and training expenditures of the taxpayer for such taxable year.

''(b) DOLLAR LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed $100,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED STUDENT EDUCATION AND TRAINING EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified student education and training expenditure' means—

''(i) any amount paid or incurred by the taxpayer for the qualified student education and training services provided by any employee of the taxpayer, and

''(ii) the basis of the taxpayer in any tangible personal property contributed by the taxpayer and used in connection with the provision of any qualified student education and training services.

''(B) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified student education and training expenditure' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

''(2) QUALIFIED STUDENT EDUCATION AND TRAINING SERVICES.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified student education and training services' means technology-based education and training of students in any eligible educational institution in employment skills related to the trade or business of the taxpayer.

''(B) TECHNOLOGY-BASED EDUCATION AND TRAINING.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the term 'technology-based education and training' means education and training in—

''(I) aerospace technology,

''(II) biotechnology,
''(III) electronic device technology,
''(IV) environmental technology,
''(V) medical device technology,
''(VI) computer technology or equipment, or
''(VII) advanced materials.

''(ii) DEFINITIONS.—For purposes of clause (i)—

''(I) AEROSPACE TECHNOLOGY.—The term 'aerospace technology' means technology used in the manufacture, design, maintenance, or servicing of aircraft, aircraft components, or other aeronautics, including space craft or space craft components.

''(II) BIOTECHNOLOGY.—The term 'biotechnology' means technology (including products and services) developed as the result of the study of the functioning of biological systems from the macro level to the molecular and sub-atomic levels.

''(III) ELECTRONIC DEVICE TECHNOLOGY.—The term 'electronic device technology' means technology involving microelectronics, semiconductors, electronic equipment, instrumentation, radio frequency, microwave, millimeter electronics, optical and optic-electrical devices, or data and digital communications and imaging devices.

''(IV) ENVIRONMENTAL TECHNOLOGY.—The term 'environmental technology' means technology involving the assessment and prevention of threats or damage to human health or the environment, environmental cleanup, or the development of alternative energy sources.

''(V) MEDICAL DEVICE TECHNOLOGY.—The term 'medical device technology' means technology involving any medical equipment or product (other than a pharmaceutical product) which has therapeutic value, diagnostic value, or both, and is regulated by the Federal Food and Drug Administration.

''(VI) COMPUTER TECHNOLOGY OR EQUIPMENT.—The term 'computer technology or equipment' has the meaning given such term in section 170(e)(6)(E)(i).

''(VII) ADVANCED MATERIALS.—The term 'advanced materials' means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronics materials, composites, polymers, and biomaterials.

''(C) ELIGIBLE EDUCATIONAL INSTITUTION.—For purposes of subparagraph (A), the term 'eligible educational institution' has the meaning given such term by section 529(e)(5).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION RULES.—All persons which are treated as a single employer under subsections (a) and (b) of section 52 shall be treated as a single taxpayer.

''(2) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ALLOCATION IN THE CASE OF PARTNERSHIPS.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

''(f) NO DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of this chapter with respect to any expenditure taken into account in computing the amount of the credit determined under this section.''

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out ''plus'' at the end of paragraph (11),

(B) by striking out the period at the end of paragraph (12), and inserting a comma and ''plus'', and

(C) by adding at the end the following:

''(13) the business-provided student education and training credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45D. Business-provided student education and training credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.●

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1935. A bill to amend title XIX of the Social Security Act to provide for coverage of community attendant services and supports under the Medicaid Program; to the Committee on Finance.

THE MEDICAID COMMUNITY ATTENDANT SERVICES AND SUPPORT ACT

Mr. HARKIN. Mr. President, today, along with Senator ARLEN SPECTER, I am introducing the Medicaid Community Attendant Services and Supports Act. Our bill allows people to have a real choice about where they receive certain types of Medicaid long term services and supports. It also provides grants to the States to assist them as they redirect Medicaid resources into community-based services and supports.

We all know that given a real choice, most Americans who need long term services and supports would rather remain in their own homes and communities than go to a nursing home. Older people want to stay in their homes; parents want to keep their children with disabilities close by; and adults with disabilities want to live in the community.

And yet, even though many people prefer home and community services and supports, our current long term care program favors institutional programs. Under our current Medicaid system, a person has a right to the most expensive form of care, a nursing home bed, because nursing home care is an entitlement. But if that same person wants to live in the community, he or she is likely to encounter a lack of available services, because community services are optional under Medicaid. The deck is stacked against community living, and the purpose of our bill is to level the playing field and give people a real choice.

Our bill would allow any person entitled to medical assistance in a nursing facility or an intermediate care facility to use the money for community attendant services and supports. Those services and supports include help with eating, bathing, brooming, toileting, transferring in and out of a wheelchair, meal planning and preparation, shopping, household chores, using the telephone, participating in the community, and health-related functions like taking pills, bowel and bladder care, and tube feeding. In short, personal assistance services and supports help people do tasks that they would do themselves, if they did not have a disability.

Personal assistance services and supports are the lowest-cost and most consumer friendly services in the long-term care spectrum. They can be provided by a variety of people, including friends and neighbors of the recipient. In many instances, with supervision, the consumer can direct his or her own care and manage his or her own attendants. This cuts down on expensive administrative overhead and the current practice of relying on medical personnel such as nurses to coordinate a person's care. States can save money and redirect medically-oriented care to those who need it most.

Not only is home and community-based care what people want, it can also be far less expensive. There is a wide variation in the cost of supporting people with disabilities in the community because individuals have different levels of need. But, for the average person, the annual cost of home and community based services is less than one-half the average cost of institutional care. In 1997, Medicaid spent $56 billion on long term care. Out of that $56 billion, $42.5 billion was spent on nursing home and institutional care. This paid for a little over 1 million people. In comparison, only $13.5 billion was spent on home and community-based care—but this money paid for almost 2 million people. Community services make sound, economic sense.

In fact, the States are out ahead of us here in Washington on this issue. Thirty States are now providing the personal care optional benefit through their Medicaid programs. Almost every State offers at least one home and community based Medicaid waiver program. Indeed, this is one of Senator Chafee's most important legacies. He was ahead of his time.

The States have realized that community based care is both popular and cost effective, and personal assistance services and supports are a key component of a successful program.

And yet there are several reasons why we have to do more.

Federal Medicaid policy should reflect the consensus that Americans with disabilities should have the equal opportunity to contribute to our communities and participate in our society as full citizens. Instead, our current Federal Medicaid policy favors exclusion over integration, and dependence over self-determination. This legislation will bring Medicaid policy in line with our broader agreement that Americans with disabilities should have the chance to move toward independence. This bill allows people to receive certain types of services in the community so that they don't have to sacrifice their full participation in society simply because they require a catheter, assistance with medication, or some other basic service.

Take the example of a friend of mine in Iowa. Dan Piper works at a hardware store. He has his own apartment and just bought a VCR. He also has Down's syndrome and diabetes. For years Dan has received services through a community waiver program. But, he recently learned that he might not be

able to receive some basic services under the waiver. The result of this decision? He may have to sacrifice his independence for services. Today, Dan works and contributes to the economy as both a wage earner and a consumer. But, tomorrow, he may be forced into a nursing home, far from his roommate, his job, and his family.

In addition, our country is facing a long-term care crisis of epic proportions in the not-too distant future. We all talk about the coming Social Security shortfall and the Medicare shortfall, but we do not talk about the long-term care shortfall. The truth is that our current long-term care system will be inadequate to deal with the aging of the baby boom generation, the oldest of whom are now turning 60. Our bill helps to create the infrastructure we will need to create the high-quality, community based long term care system of the future. And it will give families the small amount of outside help they need to continue providing care to their loved ones at home.

And, finally, in a common sense decision last June, the Supreme Court found that, to the extent Medicaid dollars are used to pay for a person's long term care, that person has a right to receive those services in the most integrated setting. States must take practical steps to avoid unjustified institutionalization by offering individuals with disabilities the supports they need to live in the community. We in Congress have a responsibility to help States meet the financial costs associated with serving people with disabilities that want to leave institutions and live in the community, and the bill I am introducing will provide that help.

And so I call upon my colleagues for your support. Millions of Americans require some assistance to help them eat, dress, go to the bathroom, clean house, move from bed to wheelchair, remember to take medication, and to perform other activities that make it possible for them to live at home. These Americans live in every State and every congressional district. Most of these people have depended on unpaid caregivers—usually family members—for their needs. But a number of factors have affected the ability of family members to help. A growing number of elderly people need assistance, and aging parents will no longer be able to care for their adult children with disabilities.

But they all have one thing in common with every American. We all deserve to live in our own homes, and be an integral part of our families, our neighborhoods, our communities. Community attendant services and supports allow people with disabilities to lead richer, fuller lives, perhaps have a job, and participate in the community. Some will become taxpayers, some will do volunteer work, some will get an education, some will participate in recreational and other community activities. All will experience a better quality of life, and a better chance to take part in the American dream.

I urge my colleagues and their staff to study our proposal over the break. I hope there will be hearings and action on this bill next year. And, finally, I ask unanimous consent that the bill, along with letters in support of the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicaid Community Attendant Services and Supports Act of 1999''.

SEC. 2. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Many studies have found that an overwhelming majority of individuals with disabilities needing long-term services and supports would prefer to receive them in home and community-based settings rather than in institutions. However, research on the provision of long-term services and supports under the medicaid program (conducted by and on behalf of the Department of Health and Human Services) has revealed a significant bias toward funding these services in institutional rather than home and community-based settings. The extent of this bias is indicated by the fact that 75 percent of medicaid funds for long-term services and supports are expended in nursing homes and intermediate care facilities for the mentally retarded while approximately 25 percent of such funds pays for services in home and community-based settings.

(2) Because of this bias, significant numbers of individuals with disabilities of all ages who would prefer to live in the community and could do so with community attendant services and supports are forced to live in unnecessarily segregated institutional settings if they want to receive needed services and supports. Benefit packages provided in these settings are medically-oriented and constitute barriers to the receipt of the types of services individuals need and want. Decisions regarding the provision of services and supports are too often influenced by what is reimbursable rather than by what individuals need and want.

(3) There is a growing recognition that disability is a natural part of the human experience that in no way diminishes an individual's right to—

(A) live independently;

(B) enjoy self-determination;

(C) make choices;

(D) contribute to society; and

(E) enjoy full inclusion and integration in the mainstream of American society.

(4) Long-term services and supports provided under the medicaid program must meet the evolving and changing needs and preferences of individuals with disabilities, including the preferences for living within one's own home or living with one's own family and becoming productive members of the community.

(5) The goals of the Nation properly include providing individuals with disabilities with—

(A) a meaningful choice of receiving long-term services and supports in the most integrated setting appropriate;

(B) the greatest possible control over the services received; and

(C) quality services that maximize social functioning in the home and community.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide that States shall offer community attendant services and supports for eligible individuals with disabilities.

(2) To provide financial assistance to States to support systems change initiatives that are designed to assist each State in developing and enhancing a comprehensive consumer-responsive statewide system of long-term services and supports that provides real consumer choice and direction consistent with the principle that services and supports should be provided in the most integrated setting appropriate to meeting the unique needs of the individual.

(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the following principles:

(1) Individuals with disabilities, or, as appropriate, their representatives, must be empowered to exercise real choice in selecting long-term services and supports that are of high quality, cost-effective, and meet the unique needs of the individual in the most integrated setting appropriate.

(2) No individual should be forced into an institution to receive services that can be effectively and efficiently delivered in the home or community.

(3) Federal and State policies, practices, and procedures should facilitate and be responsive to, and not impede, an individual's choice in selecting long-term services and supports.

(4) Individuals and their families receiving long-term services and supports must be involved in decisionmaking about their own care and be provided with sufficient information to make informed choices.

SEC. 3. COVERAGE OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS UNDER THE MEDICAID PROGRAM.

(a) REQUIRED COVERAGE FOR INDIVIDUALS ENTITLED TO NURSING FACILITY SERVICES OR ELIGIBLE FOR INTERMEDIATE CARE FACILITY SERVICES FOR THE MENTALLY RETARDED.—Section 1902(a)(10)(D) of the Social Security Act (42 U.S.C. 1396a(a)(10)(D)) is amended—

(1) by inserting ''(i)'' after ''(D)'';

(2) by adding ''and'' after the semicolon; and

(3) by adding at the end the following:

''(ii) subject to section 1935, for the inclusion of community attendant services and supports for any individual who is eligible for medical assistance under the State plan and with respect to whom there has been a determination that the individual requires the level of care provided in a nursing facility or an intermediate care facility for the mentally retarded (whether or not coverage of such intermediate care facility is provided under the State plan) and who requires such community attendant services and supports based on functional need and without regard to age or disability;''.

(b) MEDICAID COVERAGE OF COMMUNITY ATTENDANT SERVICES AND SUPPORTS.—

(1) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(A) by redesignating section 1935 as section 1936; and

(B) by inserting after section 1934 the following:

''COMMUNITY ATTENDANT SERVICES AND SUPPORTS

''SEC. 1935. (a) DEFINITIONS.—In this title:

''(1) COMMUNITY ATTENDANT SERVICES AND SUPPORTS.—

''(A) IN GENERAL.—The term 'community attendant services and supports' means attendant services and supports furnished to

an individual, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions through hands-on assistance, supervision, or cueing—

''(i) under a plan of services and supports that is based on an assessment of functional need and that is agreed to by the individual or, as appropriate, the individual's representative;

''(ii) in a home or community setting, which may include a school, workplace, or recreation or religious facility, but does not include a nursing facility, an intermediate care facility for the mentally retarded, or other congregate facility;

''(iii) under an agency-provider model or other model (as defined in paragraph (2)(C)); and

''(iv) the furnishing of which is selected, managed, and dismissed by the individual, or, as appropriate, with assistance from the individual's representative.

''(B) INCLUDED SERVICES AND SUPPORTS.—Such term includes—

''(i) tasks necessary to assist an individual in accomplishing activities of daily living, instrumental activities of daily living, and health-related functions;

''(ii) acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish activities of daily living, instrumental activities of daily living, and health-related functions;

''(iii) backup systems or mechanisms (such as the use of beepers) to ensure continuity of services and supports; and

''(iv) voluntary training on how to select, manage, and dismiss attendants.

''(C) EXCLUDED SERVICES AND SUPPORTS.—Subject to subparagraph (D), such term does not include—

''(i) provision of room and board for the individual;

''(ii) special education and related services provided under the Individuals with Disabilities Education Act and vocational rehabilitation services provided under the Rehabilitation Act of 1973;

''(iii) assistive technology devices and assistive technology services;

''(iv) durable medical equipment; or

''(v) home modifications.

''(D) FLEXIBILITY IN TRANSITION TO COMMUNITY-BASED HOME SETTING.—Such term may include expenditures for transitional costs, such as rent and utility deposits, first months's rent and utilities, bedding, basic kitchen supplies, and other necessities required for an individual to make the transition from a nursing facility or intermediate care facility for the mentally retarded to a community-based home setting where the individual resides.

''(2) ADDITIONAL DEFINITIONS.—

''(A) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' includes eating, toileting, grooming, dressing, bathing, and transferring.

''(B) CONSUMER DIRECTED.—The term 'consumer directed' means a method of providing services and supports that allow the individual, or where appropriate, the individual's representative, maximum control of the community attendant services and supports, regardless of who acts as the employer of record.

''(C) DELIVERY MODELS.—

''(i) AGENCY-PROVIDER MODEL.—The term 'agency-provider model' means, with respect to the provision of community attendant services and supports for an individual, a method of providing consumer-directed services and supports under which entities contract for the provision of such services and supports.

''(ii) OTHER MODELS.—The term 'other models' means methods, other than an agency-provider model, for the provision of consumer-directed services and supports. Such models may include the provision of vouchers, direct cash payments, or use of a fiscal agent to assist in obtaining services.

''(D) HEALTH-RELATED FUNCTIONS.—The term 'health-related functions' means functions that can be delegated or assigned by licensed health-care professionals under State law to be performed by an attendant.

''(E) INSTRUMENTAL ACTIVITIES OF DAILY LIVING.—The term 'instrumental activities of daily living' includes meal planning and preparation, managing finances, shopping for food, clothing and other essential items, performing essential household chores, communicating by phone and other media, and getting around and participating in the community.

''(F) INDIVIDUAL'S REPRESENTATIVE.—The term 'individual's representative' means a parent, a family member, a guardian, an advocate, or an authorized representative of an individual.

''(b) LIMITATION ON AMOUNTS OF EXPENDITURES UNDER THIS TITLE.—In carrying out section 1902(a)(10)(D)(ii), a State shall permit an individual who has a level of severity of physical or mental impairment that entitles such individual to medical assistance with respect to nursing facility services or qualifies the individual for intermediate care facility services for the mentally retarded to choose to receive medical assistance for community attendant services and supports (rather than medical assistance for such institutional services and supports), in the most integrated setting appropriate to the needs of the individual, so long as the aggregate amount of the Federal expenditures for community attendant services and supports for all such individuals in a fiscal year does not exceed the total that would have been expended for such individuals to receive such institutional services and supports in the year.

''(c) MAINTENANCE OF EFFORT.—With respect to a fiscal year quarter, no Federal funds may be paid to a State for medical assistance provided to individuals described in section 1902(a)(10)(D)(ii) for such fiscal year quarter if the Secretary determines that the total of the State expenditures for programs to enable such individuals with disabilities to receive community attendant services and supports (or services and supports that are similar to such services and supports) under other provisions of this title for the preceding fiscal year quarter is less than the total of such expenditures for the same fiscal year quarter for the preceding fiscal year.

''(d) STATE QUALITY ASSURANCE PROGRAM.—In order to continue to receive Federal financial participation for providing community attendant services and supports under this section, a State shall, at a minimum, establish and maintain a quality assurance program that provides for the following:

''(1) The State shall establish requirements, as appropriate, for agency-based and other models that include—

''(A) minimum qualifications and training requirements, as appropriate for agency-based and other models;

''(B) financial operating standards; and

''(C) an appeals procedure for eligibility denials and a procedure for resolving disagreements over the terms of an individualized plan.

''(2) The State shall modify the quality assurance program, where appropriate, to maximize consumer independence and consumer direction in both agency-provided and other models.

''(3) The State shall provide a system that allows for the external monitoring of the quality of services by entities consisting of consumers and their representatives, disability organizations, providers, family, members of the community, and others.

''(4) The State provides ongoing monitoring of the health and well-being of each recipient.

''(5) The State shall require that quality assurance mechanisms appropriate for the individual should be included in the individual's written plan.

''(6) The State shall establish a process for mandatory reporting, investigation, and resolution of allegations of neglect, abuse, or exploitation.

''(7) The State shall obtain meaningful consumer input, including consumer surveys, that measure the extent to which a participant receives the services and supports described in the individual's plan and the participant's satisfaction with such services and supports.

''(8) The State shall make available to the public the findings of the quality assurance program.

''(9) The State shall establish an on-going public process for the development, implementation, and review of the State's quality assurance program.

''(10) The State shall develop and implement a program of sanctions.

''(e) FEDERAL ROLE IN QUALITY ASSURANCE.—The Secretary shall conduct a periodic sample review of outcomes for individuals based upon the individual's plan of support and based upon the quality assurance program of the State. The Secretary may conduct targeted reviews upon receipt of allegations of neglect, abuse, or exploitation. The Secretary shall develop guidelines for States to use in developing sanctions.

''(f) REQUIREMENT TO EXPAND ELIGIBILITY.—Effective October 1, 2000, a State may not exercise the option of coverage of individuals under section 1902(a)(10)(A)(ii)(V) without providing coverage under section 1902(a)(10)(A)(ii)(VI).

''(g) REPORT ON IMPACT OF SECTION.—The Secretary shall submit to Congress periodic reports on the impact of this section on beneficiaries, States, and the Federal Government.''.

(c) INCLUSION IN OPTIONAL ELIGIBILITY CLASSIFICATION.—Section 1902(a)(10)(A)(ii)(VI) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by inserting ''or community attendant services and supports described in section 1935'' after ''section 1915'' each place such term appears.

(d) COVERAGE AS MEDICAL ASSISTANCE.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) by striking ''and'' at the end of paragraph (26);

(B) by redesignating paragraph (27) as paragraph (28); and

(C) by inserting after paragraph (26) the following:

''(27) community attendant services and supports (to the extent allowed and as defined in section 1935); and''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)) is amended by striking ''of of'' and inserting ''of''.

(B) Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''and (27)'' after ''(24)''.

SEC. 4. GRANTS TO DEVELOP AND ESTABLISH REAL CHOICE SYSTEMS CHANGE INITIATIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall award grants described in subsection (b) to States to support real choice systems change initiatives

that establish specific action steps and specific timetables to provide consumer-responsive long term services and supports to eligible individuals in the most integrated setting appropriate based on the unique strengths and needs of the individual and the priorities and concerns of the individual (or, as appropriate, the individual's representative).

(2) ELIGIBILITY.—To be eligible for a grant under this section, a State shall—

(A) establish the Consumer Task Force in accordance with subsection (d); and

(B) submit an application at such time, in such manner, and containing such information as the Secretary may determine. The application shall be jointly developed and signed by the designated State official and the chairperson of such Task Force, acting on behalf of and at the direction of the Task Force.

(3) DEFINITION OF STATE.—In this section, the term ''State'' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) GRANTS FOR REAL CHOICE SYSTEMS CHANGE INITIATIVES.—

(1) IN GENERAL.—From funds appropriated under subsection (f), the Secretary shall award grants to States to—

(A) support the establishment, implementation, and operation of the State real choice systems change initiatives described in subsection (a); and

(B) conduct outreach campaigns regarding the existence of such initiatives.

(2) DETERMINATION OF AWARDS; STATE ALLOTMENTS.—The Secretary shall develop a formula for the distribution of funds to States for each fiscal year under subsection (a). Such formula shall give preference to States that have a relatively higher proportion of long-term services and supports furnished to individuals in an institutional setting but who have a plan described in an application submitted under subsection (a)(2).

(c) AUTHORIZED ACTIVITIES.—A State that receives a grant under this section shall use the funds made available through the grant to accomplish the purposes described in subsection (a) and, in accomplishing such purposes, may carry out any of the following systems change activities:

(1) NEEDS ASSESSMENT AND DATA GATHERING.—The State may use funds to conduct a statewide needs assessment that may be based on data in existence on the date on which the assessment is initiated and may include information about the number of individuals within the State who are receiving long-term services and supports in unnecessarily segregated settings, the nature and extent to which current programs respond to the preferences of individuals with disabilities to receive services in home and community-based settings as well as in institutional settings, and the expected change in demand for services provided in home and community settings as well as institutional settings.

(2) INSTITUTIONAL BIAS.—The State may use funds to identify, develop, and implement strategies for modifying policies, practices, and procedures that unnecessarily bias the provision of long-term services and supports toward institutional settings and away from home and community-based settings, including policies, practices, and procedures governing statewideness, comparability in amount, duration, and scope of services, financial eligibility, individualized functional assessments and screenings (including individual and family involvement), and knowledge about service options.

(3) OVER MEDICALIZATION OF SERVICES.—The State may use funds to identify, develop, and implement strategies for modifying policies, practices, and procedures that unnecessarily bias the provision of long-term services and supports by health care professionals to the extent that quality services and supports can be provided by other qualified individuals, including policies, practices, and procedures governing service authorization, case management, and service coordination, service delivery options, quality controls, and supervision and training.

(4) INTERAGENCY COORDINATION; SINGLE POINT OF ENTRY.—The State may support activities to identify and coordinate Federal and State policies, resources, and services, relating to the provision of long-term services and supports, including the convening of interagency work groups and the entering into of interagency agreements that provide for a single point of entry and the design and implementation of a coordinated screening and assessment system for all persons eligible for long-term services and supports.

(5) TRAINING AND TECHNICAL ASSISTANCE.—The State may carry out directly, or may provide support to a public or private entity to carry out training and technical assistance activities that are provided for individuals with disabilities, and, as appropriate, their representatives, attendants, and other personnel (including professionals, paraprofessionals, volunteers, and other members of the community).

(6) PUBLIC AWARENESS.—The State may support a public awareness program that is designed to provide information relating to the availability of choices available to individuals with disabilities for receiving long-term services and support in the most integrated setting appropriate.

(7) DOWNSIZING OF LARGE INSTITUTIONS.—The State may use funds to support the per capita increased fixed costs in institutional settings directly related to the movement of individuals with disabilities out of specific facilities and into community-based settings.

(8) TRANSITIONAL COSTS.—The State may use funds to provide transitional costs described in section 1935(a)(1)(D) of the Social Security Act, as added by this Act.

(9) TASK FORCE.—The State may use funds to support the operation of the Consumer Task Force established under subsection (d).

(10) DEMONSTRATIONS OF NEW APPROACHES.—The State may use funds to conduct, on a time-limited basis, the demonstration of new approaches to accomplishing the purposes described in subsection (a).

(11) OTHER ACTIVITIES.—The State may use funds for any systems change activities that are not described in any of the preceding paragraphs of this subsection and that are necessary for developing, implementing, or evaluating the comprehensive statewide system of long term services and supports.

(d) CONSUMER TASK FORCE.—

(1) ESTABLISHMENT AND DUTIES.—To be eligible to receive a grant under this section, each State shall establish a Consumer Task Force (referred to in this section as the ''Task Force'') to assist the State in the development, implementation, and evaluation of real choice systems change initiatives.

(2) APPOINTMENT.—Members of the Task Force shall be appointed by the Chief Executive Officer of the State in accordance with the requirements of paragraph (3), after the solicitation of recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

(3) COMPOSITION.—

(A) IN GENERAL.—The Task Force shall represent a broad range of individuals with disabilities from diverse backgrounds and shall include representatives from Developmental Disabilities Councils, State Independent Living Councils, Commissions on Aging, organizations that provide services to individuals with disabilities and consumers of long-term services and supports.

(B) INDIVIDUALS WITH DISABILITIES.—A majority of the members of the Task Force shall be individuals with disabilities or the representatives of such individuals.

(C) LIMITATION.—The Task Force shall not include employees of any State agency providing services to individuals with disabilities other than employees of agencies described in the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

(e) AVAILABILITY OF FUNDS.—

(1) FUNDS ALLOTTED TO STATES.—Funds allotted to a State under a grant made under this section for a fiscal year shall remain available until expended.

(2) FUNDS NOT ALLOTTED TO STATES.—Funds not allotted to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for allotment by the Secretary using the allotment formula established by the Secretary under subsection (b)(2).

(f) ANNUAL REPORT.—A State that receives a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of eligible individuals in the State who receive long-term services and supports in the most integrated setting appropriate, including through community attendant services and supports and other community-based settings.

(g) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is authorized to be appropriated and there is appropriated to make grants under this section for—

(1) fiscal year 2001, $25,000,000; and

(2) for fiscal year 2002 and each fiscal year thereafter, such sums as may be necessary to carry out this section.

SEC. 5. STATE OPTION FOR ELIGIBILITY FOR INDIVIDUALS.

(a) IN GENERAL.—Section 1903(f) of the Social Security Act (42 U.S.C. 1396b(f)) is amended—

(1) in paragraph (4)(C), by inserting ''subject to paragraph (5),'' after ''does not exceed'', and

(2) by adding at the end the following:

''(5)(A) A State may waive the income, resources, and deeming limitations described in paragraph (4)(C) in such cases as the State finds the potential for employment opportunities would be enhanced through the provision of medical assistance for community attendant services and supports in accordance with section 1935.

''(B) In the case of an individual who is eligible for medical assistance described in subparagraph (A) only as a result of the application of such subparagraph, the State may, notwithstanding section 1916(b), impose a premium based on a sliding scale related to income.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to medical assistance provided for community attendant services and supports described in section 1935 of the Social Security Act furnished on or after October 1, 2000.

SEC. 6. STUDIES AND REPORTS.

(a) REVIEW OF, AND REPORT ON, REGULATIONS.—The National Council on Disability established under title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780 et seq.) shall review regulations in existence under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) on the date of enactment of this Act insofar as such regulations regulate the provision of home health services, personal care

services, and other services in home and community-based settings and, not later than 1 year after such date, submit a report to Congress on the results of such study, together with any recommendations for legislation that the Council determines to be appropriate as a result of the study.

(b) REPORT ON REDUCED TITLE XIX EXPENDITURES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on how expenditures under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) can be reduced by the furnishing of community attendant services and supports in accordance with section 1935 of such Act (as added by section 3 of this Act).

SEC. 7. TASK FORCE ON FINANCING OF LONG-TERM CARE SERVICES.

The Secretary of Health and Human Services shall establish a task force to examine appropriate methods for financing long-term services and supports. The task force shall include significant representation of individuals (and representatives of individuals) who receive such services and supports.

NATIONAL COUNCIL ON INDEPENDENT LIVING,
Arlington, VA, November 15, 1999.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN, The National Council on Independent Living (NCIL) applauds your leadership in introducing the Medicaid Community Attendant Services and Supports Act (MiCASSA).

NCIL is the national membership organization for centers for independent living and people with disabilities. Our membership includes individuals and organizations from each of the 50 states. As a leading national, cross-disability, grassroots organization run by and for people with disabilities, NCIL has been instrumental in efforts to advance the rights and opportunities for all Americans with disabilities.

The members of NCIL have wholeheartedly endorsed MiCASSA, have selected its passage as one of our top priorities. We join with our colleagues from ADAPT, who are leading the national effort to pass MiCASSA. There is nothing more important to our members than real choice for people with disabilities. Passage of MiCASSA will create the critical systems change needed for people with disabilities to enjoy the freedom of real choice in services and supports. This will allow people with disabilities to finally enjoy their civil right to live in their own homes, free from isolation and segregation in nursing homes and institutions.

We thank you for your vision and for your willingness to lead the effort to achieve freedom for our people. You can count on NCIL to work alongside you as we give our finest efforts towards passage of MiCASSA at the very beginning of the new millennium.

Sincerely Yours,
PAUL SPOONER,
President.
MIKE OXFORD,
Vice President and Chair, Personal Assistance Services Sub-Committee.

THE ASSOCIATION OF PROGRAMS FOR RURAL INDEPENDENT LIVING,
Kent, OH, November 12, 1999.

Senator TOM HARKIN, Iowa,
U.S. Senate, Washington, DC.

DEAR HONORABLE SENATOR, It is my understanding that the Community Attendant Services and Support Act (MiCASA) is about to be introduced by you, into Congress on Monday, November 15, 1999. On behalf of the Governing Board of the Association of Programs for Rural Independent Living (APRIL) I want to wholeheartedly endorse your efforts to pass this important piece of legislation.

APRIL is a national network of over 150 members, primarily rural centers for independent living (CILs), CIL satellite offices and statewide independent living councils (SILCs), as well as other related organizations and individuals concerned about people with disabilities living and working in Rural America. We are a nonprofit group, who for the past twelve years, has continued to grow in both numbers and in our efforts to bring to light the myriad of issues facing our rural constituents. Our membership in turn, represents thousands of consumers, many of whom still remain confined to rooms in their homes, or in institutions due to lack of community supports.

MiCASA is a Bill that has been long in coming and APRIL has joined with it's national colleagues throughout the years to urge that such a consumer-directed, community-based model of attendant services and support be implemented throughout the United States. Let's hope that as the new millennium draws near, that mandatory institutionalization will be unnecessary, and that the long-standing bias toward these institutions will have ended.

As you well know, coming from the rural state of Iowa, there are too many barriers for people with disabilities—from lack of transportation, housing, job opportunities, personal attendants, financial resources, community access and outdated, limiting attitudes. All these obstacles are compounded in the isolation of rural America. The passage of MiCASA would eliminate of one of the greatest barriers that people face. Your record of supporting the rights of our people, is solid. Our continued support of you and your efforts is assured. Please let us know, as the legislation begins it's journey towards passage, how we may help assure it's success.

As always, our thanks to ADAPT and the others who work so steadfastly on our behalf.

LINDA GONZALES,
National Coordinator.

PARALYZED VETERANS OF AMERICA,
Washington, DC, November 16, 1999.

Hon. TOM HARKIN,
Senate Office Building, Washington, DC.

DEAR SENATOR HARKIN: On behalf of the Paralyzed Veterans of America (PVA), I want to thank you for introducing ''The Medicaid Community Attendant Services and Supports Act of 1999.'' This bill will allow qualified individuals with disabilities the option of receiving long term services and supports including personal assistant services in a home and community based settings rather than in institutions.

PVA has been a long time advocate for consumer-directed personal assistant services (PAS). Attendants providing PAS perform activities of daily living (ADLs) for people with disabilities including feeding, bathing, toileting, dressing, and transferring. With PAS, many PVA members and thousands of people with disabilities across the country are able to live independent and active lives at home or in a community setting.

Historically, long term services for people with disabilities have been provided in nursing homes and in institutional settings. However, your bill will provide funds to States to support systems change initiatives that are designed to assist each State in developing a comprehensive consumer responsive state wide system of long term services and supports that will provide real consumer choice and direct in an integrated setting appropriate to the needs of the individual.

PVA has long recognized that disability is a natural part of life. People with disabilities have the right to live independently, enjoy self-determination, make independent choices, contribute to society and enjoy full inclusion and integration into the mainstream of American society. This legislation will help advance this cause and PVA stands ready and willing to work with you and your staff to ensure passage of the Medicaid Community Attendant Services and Supports Act of 1999.

Sincerely,
JOHN C. BOLLINGER,
Deputy Executive Director.

THE ARC,
Arlington, TX, November 16, 1999.

Hon. THOMAS HARKIN,
Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATORS HARKIN AND SPECTER: On behalf of The Arc of the United States, I wish to express our strong support for introducing the Medicaid Community Attendant Services and Supports Act (MiCASSA). MiCASSA represents an important step in reforming our long-term care policy by helping to reduce the institutional bias in our long-term care services system. By doing so, MiCASSA would help individuals with mental retardation live quality lives in the community.

Created over thirty years ago, our long-term care service system is funded mainly by Medicare and Medicaid dollars. Today, over 75 percent of Medicaid long-term care dollars are spent on institutional services, leaving few dollars for community-based services. A national long-term service policy should not favor institutions over home and community-based services. It should allow families and individuals real choice regarding where and how services should be delivered.

People with mental retardation want to live, work and play in the community. MiCASSA would help keep families together and would prevent people with mental retardation from being unnecessarily institutionalized. Community services have also shown on average to be less expensive than institutional services.

MiCASSA complements the 1999 Supreme Court decision in Olmstead, by providing a way for states to meet their obligations under the decision. It would also help reduce the interminable waiting lists for community-based services and supports.

The Arc of the Untied States, the largest national voluntary organization devoted solely to the welfare of people with mental retardation and their families, stands ready to assist you in any way to move this important piece of legislation.

Sincerely,
BRENDA DOSS,
President.

JUSTIN DART, Jr.,
Washington, DC, November 16, 1999.

Hon. TOM HARKIN,
U.S. Senator, Senate Hart Office Building, Washington, DC.

DEAR SENATOR HARKIN: I know that the great majority of 54 million Americans with disabilities join me in congratulating you and Senator Spector on introducing the Medicaid Community Attendant Services and Supports Act of 1999.

The passage of this law will be a landmark progress for free-enterprise democracy. It will pave the way for liberating hundreds of thousands of Americans from institutions by providing the simple services they need to live in their homes and participate in their communities.

I urge every member of Congress to support this historic legislation.

Sincerely,

JUSTIN DART,
Justice For All.

NATIONAL SPINAL CORD INJURY ASSOCIATION,
Silver Spring, MD, November 16, 1999.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: The National Spinal Cord Injury Association (NSCIA) joins our colleagues from the National Council on Independent Living and ADAPT in thanking you for your leadership in introducing the Medicaid Community Attendant Services and Support Act (MiCASSA).

This bill, when passed, will make a significant difference in the lives of the 600,000 people with spinal cord injury and disease in the United States, many of whom are currently forced to choose institutional and nursing home services when what they really need are personal assistance services. It has been demonstrated repeatedly that community-based services are better, more cost effective and preferred.

We thank you for your support for people living with spinal cord injury and disease and for your willingness to lead the effort to offer real choices for people with disabilities. You can count on NSCIA's support in the effort to pass MiCASSA.

Sincerely Yours,

THOMAS H. COUNTEE, JR.,
Executive Director.

● Mr. SPECTER. Mr. President, I have sought recognition to join Senator TOM HARKIN, my colleague and distinguished ranking member of the Appropriations Subcommittee on Labor, Health and Human Services and Education, which I chair, in introducing the Medicaid Attendant Care Services and Supports Act of 1999. This creative proposal addresses a glaring gap in Federal health coverage, and assists one of our Nation's most vulnerable populations, persons with disabilities. I would also note that a similar version on this bill was included in the Health Care Assurance Act of 1999 (S. 24), which I introduced on January 19, 1999.

In an effort to improve the delivery of care and the comfort of those with long-term disabilities, this vital legislation would allow for reimbursement for community-based attendant care services, in lieu of institutionalization, for eligible individuals who require such services based on functional need, without regard to the individual's age or the nature of the disability. The most recent data available tell us that 5.9 million individuals receive care for disabilities under the Medicaid program. The number of disabled who are not currently enrolled in the program who would apply for this improved benefit is not easily counted, but would likely be substantial given the preference of home and community-based care over institutional care.

Under this proposal, States may apply for grants for assistance in implementing ''systems change'' initiatives, in order to eliminate the institutional bias in their current policies and for needs assessment activities. Further, if a state can show that the aggregate amounts of Federal expenditures on people living in the community exceeds what would have been spent on the same people had they been in nursing homes, the state can limit the program, perhaps by not letting any more people apply; no limiting mechanism is mandated under this bill. And finally, States would be required to maintain expenditures for attendant care services under other Medicaid community-based programs, thereby preventing the states from shifting patients into the new benefit proposed under this bill.

Let me speak briefly about why such a change in Medicaid law is so desperately needed. Only a few short months ago, the Supreme Court held in *Olmstead* v. *L.C.*, 119 S. Ct. 2176 (1999), that the Americans with Disabilities Act (ADA) requires States, under some circumstances, to provide community-based treatment to persons with mental disabilities rather than placing them in institutions. This decision and several lower court decisions have pointed to the need for a structured Medicaid attendant-care services benefit in order to meet obligations under the ADA. Disability advocates strongly support this legislation, arguing that the lack of Medicaid communty-based services options is discriminatory and unhealthful for disabled individuals. Virtually every major disability advocacy group supports this bill, including ADAPT, the Arc, the National Council on Independent Living, Paralyzed Veterans of America, and the National Spinal Cord Injury Association.

Senator HARKIN and I recognize that such a shift in the Medicaid program is a huge undertaking—but feel that it is a vitally important one. We are introducing this legislation today in an attempt to move ahead with the consideration of crucial disability legislation and to provide a starting point for debate. Mr. President, the time has come for concerted action in this arena.

I urge the congressional leadership, including the appropriate committee chairmen, to move forward in considering this legislation, and take the significant next step forward in achieving the objective of providing individuals with disabilities the freedom to live in their own communities.●

By Mr. WYDEN (for himself and Mr. SMITH or Oregon):

S. 1936. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other National Forest System land in the State of Oregon and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy and Natural Resources.

THE BENT PINE NURSERY LAND CONVEYANCE ACT

Mr. WYDEN. Mr. President, I am introducing today legislation that will allow the Forest Service to sell an abandoned facility to the city of Bend, OR, to be used for recreational purposes. The idea for this legislation came from the citizens of Bend themselves. They worked with Forest Service personnel in the adjacent Deschutes National Forest and crafted a win-win solution to different problems. What others might have seen as a problem, namely the shutdown of the Pine Nursery facility, they saw as an opportunity—the opportunity to provide a recreational complex for the community and to generate funding for needed facilities in the Deschutes Forest. This legislation would allow them to implement this creative idea.

Faced with the inevitable sale, trade or development of the Forest Service's Bend Pine Nursery, which supplied seedlings for five decades of reforestation work, last spring I met with representatives from the Bend Metro Parks and Recreation District; the city of Bend; the Bend School District; folks from the soccer and Little League baseball programs; and others who are concerned about central Oregon's youth and adults having adequate recreational facilities.

What these folks asked me to do was very straightforward: if the Forest service is going to sell, exchange, or otherwise develop the former Bend Pine Nursery, the community wanted the opportunity to acquire the property for the development of a sports complex, playing fields and other facilities.

My bill simply creates an opportunity for the Bend Metro Parks and Recreation District to work with the people of Bend on whether or not to purchase this property. It does not require purchase by the community, it simply gives the community a right of first refusal to buy the property at fair market value.

At the same time, this legislation allows the Deschutes National Forest to address its need for a new administrative site. Currently, the Deschutes pays approximately $725,000 per year in annual lease and utility costs. This is ¾ of a million dollars that is not being spent on the ground, improving the quality of Deschutes National Forest facilities, lands and resources. It is a credit to the leadership of the Deschutes National Forest that they seek a way out from this unnecessary, unproductive and recurring expense.

My bill will enable the Deschutes to use the money raised from the sale of the nursery and other surplus properties in Oregon toward the acquisition—and ownership—of a new administrative site. The cost of a new building is estimated to be about $7 million; as my colleagues can see, the forest is paying almost a million dollars in rent each year. In the words of an ad from today's ''Bend Bulletin'', and I quote: ''Tired of throwing away thousands on rent? Think you can't buy? think again. If you're stuck in the renter rut, try it our way.''

I look forward to a hearing next year on this bill in the Energy and Natural Resources Subcommittee on Forests and Public Land Management, of which

I am ranking member. I welcome my colleague, Mr. SMITH, as an original cosponsor of this innovative bill

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bend Pine Nursery Land Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(2) STATE.—The term ''State'' means the State of Oregon.

SEC. 3. SALE OR EXCHANGE OF ADMINISTRATIVE SITES.

(a) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary may prescribe, sell or exchange any or all right, title, and interest of the United States in and to the following National Forest System land and improvements:

(1) Bend Pine Nursery, comprising approximately 210 acres, as depicted on site plan map entitled ''Bend Pine Nursery Administrative Site'', dated May 13, 1999.

(2) The Federal Government-owned facilities at Shelter Cove Resort, as depicted on site plan map entitled ''Shelter Cove Resort'', dated November 3, 1997.

(3) Isolated parcels of National Forest System land located in sec. 25, T. 20 S., R. 10 E., and secs. 16, 17, 20, and 21, T. 20 S., R. 11 E., Willamette Meridian, as depicted on the map entitled ''Isolated Parcels, Deschutes National Forest'', dated 1988.

(4) Alsea Administrative Site, consisting of approximately 24 acres, as depicted on site plan map entitled ''Alsea Administrative Site'', dated May 14, 1999.

(5) Mapleton Administrative Site, consisting of approximately 8 acres, as depicted on site plan map entitled ''Mapleton Administrative Site'', dated May 14, 1999.

(6) Springdale Administrative Site, consisting of approximately 3.6 acres, as depicted on site plan map entitled ''Site Development Plan, Columbia Gorge Ranger Station'', dated April 22, 1964.

(7) Dale Administrative Site, consisting of approximately 40 acres, as depicted on site plan map entitled ''Dale Administrative Site'', dated July 7, 1999.

(b) CONSIDERATION.—Consideration for a sale or exchange of land under subsection (a) may include the acquisition of land, existing improvements, or improvements constructed to the specifications of the Secretary.

(c) APPLICABLE LAW.—Except as otherwise provided in this Act, any sale or exchange of National Forest System land under subsection (a) shall be subject to the laws (including regulations) applicable to the conveyance and acquisition of land for the National Forest System.

(d) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of land exchanged under subsection (a).

(e) SOLICITATIONS OF OFFERS.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary may solicit offers for sale or exchange of land under this section on such terms and conditions as the Secretary may prescribe.

(2) REJECTION OF OFFERS.—The Secretary may reject any offer made under this section if the Secretary determines that the offer is not adequate or not in the public interest.

(3) RIGHT OF FIRST REFUSAL.—The Bend Metro Parks and Recreation District or other units of local government in Deschutes County, Oregon, shall be given the right of first refusal to purchase the Bend Pine Nursery described in subsection (a)(1).

(f) REVOCATIONS.—

(1) IN GENERAL.—Any public land order withdrawing land described in subsection (a) from all forms of appropriation under the public land laws is revoked with respect to any portion of the land conveyed by the Secretary under this section.

(2) EFFECTIVE DATE.—The effective date of any revocation under paragraph (1) shall be the date of the patent or deed conveying the land.

SEC. 4. DISPOSITION OF FUNDS.

(a) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of a sale or exchange under section 3(a) in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the ''Sisk Act'').

(b) USE OF PROCEEDS.—Funds deposited under subsection (a) shall be available to the Secretary, without further Act of appropriation, for—

(1) the acquisition, construction, or improvement of administrative facilities and associated land in connection with the Deschutes National Forest; and

(2) to the extent the funds are not necessary to carry out paragraph (1), the acquisition of land and interests in land in the State.

(c) ADMINISTRATION.—Subject to valid existing rights, the Secretary shall manage any land acquired by purchase or exchange under this Act in accordance with the Act of March 1, 1911 (16 U.S.C. 480 et seq.) (commonly known as the ''Weeks Act'') and other laws (including regulations) pertaining to the National Forest System.

SEC. 5. CONSTRUCTION OF NEW ADMINISTRATIVE FACILITIES.

The Secretary may acquire, construct, or improve administrative facilities and associated land in connection with the Deschutes National Forest System by using—

(1) funds made available under section 4(b); and

(2) to the extent the funds are insufficient to carry out the acquisition, construction, or improvement, funds subsequently made available for the acquisition, construction, or improvement.

SEC. 6. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

ADDITIONAL COSPONSORS

S. 345

At the request of Mr. ALLARD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 386

At the request of Mr. GORTON, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 424

At the request of Mr. MACK, his name was added as a cosponsor of S. 424, a bill to preserve and protect the free choice of individuals and employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 866

At the request of Mr. CONRAD, the name of the Senator from Arkansas [Mrs. LINCOLN] was added as a cosponsor of S. 866, a bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of participation for hospitals and ambulatory surgical centers under the medicare program relating to certified registered nurse anesthetists' services to make the regulations consistent with State supervision requirements.

S. 1109

At the request of Mr. MCCONNELL, the names of the Senator from Wisconsin [Mr. FEINGOLD] and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 1109, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1198

At the request of Mr. SHELBY, the names of the Senator from Tennessee [Mr. THOMPSON], the Senator from Arkansas [Mrs. LINCOLN], the Senator from Ohio [Mr. VOINOVICH], the Senator from Nebraska [Mr. KERREY], the Senator from Alaska [Mr. STEVENS], the Senator from Louisiana [Mr. BREAUX], the Senator from Utah [Mr. BENNETT], the Senator from Louisiana [Ms. LANDRIEU], the Senator from Oklahoma [Mr. INHOFE], the Senator from Virginia [Mr. ROBB], the Senator from Delaware [Mr. ROTH], and the Senator from Nebraska [Mr. HAGEL] were added as cosponsors of S. 1198, a bill to amend chapter 8 of title 5, United States Code, to provide for a report by the General Accounting Office to Congress on agency regulatory actions, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1200, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1332

At the request of Mr. LUGAR, the names of the Senator from Virginia [Mr. WARNER], the Senator from North Carolina [Mr. HELMS], the Senator from Missouri [Mr. ASHCROFT], the Senator from South Carolina [Mr. THURMOND], the Senator from Idaho [Mr. CRAIG], the Senator from Maine [Ms. SNOWE], the Senator from Florida [Mr. MACK], the Senator from Washington [Mr. GORTON], the Senator from Vermont [Mr. JEFFORDS], the Senator from Nebraska [Mr. HAGEL], the Senator from Kansas [Mr. BROWNBACK], the Senator from Utah [Mr. HATCH], the Senator from Utah [Mr. BENNETT], the Senator from New Hampshire [Mr. SMITH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Mississippi [Mr. LOTT], the Senator from Montana [Mr. BURNS], the Senator from Michigan [Mr. ABRAHAM], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 1332, a bill to authorize the President to award a gold medal on behalf of Congress to Father Theodore M. Hesburg, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community.

S. 1384

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1438

At the request of Mr. ROBB, his name was added as a cosponsor of S. 1438, a bill to establish the National Law Enforcement Museum on Federal land in the District of Columbia.

S. 1446

At the request of Mr. LOTT, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1446, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 1448

At the request of Mr. HUTCHINSON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1448, a bill to amend the Food Security Act of 1985 to authorize the annual enrollment of land in the wetlands reserve program, to extend the program through 2005, and for other purposes.

S. 1464

At the request of Mr. ROBERTS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1464, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish certain requirements regarding the Food Quality Protection Act of 1996, and for other purposes.

S. 1498

At the request of Mr. BURNS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1498, a bill to amend chapter 55 of title 5, United States Code, to authorize equal overtime pay provisions for all Federal employees engaged in wildland fire suppression operations.

S. 1561

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1561, a bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes.

S. 1638

At the request of Mr. ASHCROFT, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1638, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend the retroactive eligibility dates for financial assistance for higher education for spouses and dependent children of Federal, State, and local law enforcement officers who are killed in the line of duty.

S. 1718

At the request of Mr. KERRY, the name of the Senator from New York [Mr. SCHUMER] was added as a cosponsor of S. 1718, a bill to amend the Internal Revenue Code of 1986 to provide a credit for medical research related to developing vaccines against widespread diseases.

S. 1733

At the request of Mr. FITZGERALD, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1733, a bill to amend the Food Stamp Act of 1977 to provide for a national standard of interoperability and portability applicable to electronic food stamp benefit transactions.

S. 1738

At the request of Mr. JOHNSON, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1738, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for a packer to own, feed, or control livestock intended for slaughter.

S. 1760

At the request of Mr. BIDEN, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1760, a bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods.

S. 1762

At the request of Mr. COVERDELL, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1762, a bill to amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resources projects previously funded by the Secretary under such Act or related laws.

S. 1796

At the request of Mr. MACK, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1796, a bill to modify the enforcement of certain anti-terrorism judgements, and for other purposes.

S. 1800

At the request of Mr. GRAHAM, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1800, a bill to amend the Food Stamp Act of 1977 to improve onsite inspections of State food stamp programs, to provide grants to develop community partnerships and innovative outreach strategies for food stamp and related programs, and for other purposes.

S. 1813

At the request of Mr. KENNEDY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1813, a bill to amend the Public Health Service Act to provide additional support for and to expand clinical research programs, and for other purposes.

S. 1823

At the request of Mr. DEWINE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1823, a bill to revise and extend the Safe and Drug-Free Schools and Communities Act of 1994.

S. 1851

At the request of Mr. CAMPBELL, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1851, a bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs.

S. 1873

At the request of Mr. SESSIONS, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1873, a bill to delay the effective date of the final rule regarding the Organ Procurement and Transplantation Network.

S. 1891

At the request of Mr. CHAFEE, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1891, a bill to amend the Elementary and Secondary Education Act of 1965 to improve literacy through family literacy projects.

S. 1900

At the request of Mr. LAUTENBERG, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

SENATE CONCURRENT RESOLUTION 60

At the request of Mr. FEINGOLD, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of Senate Concurrent Resolution 60, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

SENATE RESOLUTION 87

At the request of Mr. DURBIN, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of Senate Resolution 87, a resolution commemorating the 60th anniversary of the International Visitors Program

SENATE RESOLUTION 106

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Resolution 106, a resolution to express the sense of the Senate regarding English plus other languages.

SENATE RESOLUTION 108

At the request of Mr. BREAUX, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Vermont [Mr. LEAHY], the Senator from Missouri [Mr. BOND], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of Senate Resolution 108, a resolution designating the month of March each year as ''National Colorectal Cancer Awareness Month.''

SENATE RESOLUTION 128

At the request of Mr. COCHRAN, the names of the Senator from Kentucky [Mr. BUNNING], the Senator from Georgia [Mr. CLELAND], the Senator from New York [Mr. MOYNIHAN], the Senator from New York [Mr. SCHUMER], the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Resolution 128, a resolution designating March 2000, as ''Arts Education Month.''

SENATE RESOLUTION 134

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 134, a resolution expressing the sense of the Senate that Joseph Jefferson ''Shoeless Joe'' Jackson should be appropriately honored for his outstanding baseball accomplishments.

SENATE RESOLUTION 196

At the request of Mr. WARNER, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. CRAIG], the Senator from North Dakota [Mr. DORGAN], and the Senator from Maine [Ms. COLLINS] were added as cosponsors of Senate Resolution 196, a resolution commending the submarine force of the United States Navy on the 100th anniversary of the force.

SENATE RESOLUTION 200

At the request of Mr. GRAMS, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Resolution 200, a resolution designating the week of February 14–20 as ''National Biotechnology Week.''

SENATE RESOLUTION 212

At the request of Mr. ABRAHAM, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Resolution 212, a resolution to designate August 1, 2000, as ''National Relatives as Parents Day.''

SENATE RESOLUTION 225

At the request of Mr. DURBIN, the names of the Senator from Nebraska [Mr. HAGEL], the Senator from Virginia [Mr. ROBB], and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of Senate Resolution 225, a resolution to designate November 23, 2000, Thanksgiving Day, as a day to ''Give Thanks, Give Life'' and to discuss organ and tissue donation with other family members.

SENATE RESOLUTION 227

At the request of Mr. BOND, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of Senate Resolution 227, a resolution expressing the sense of the Senate in appreciation of the National Committee for Employer Support of the Guard and Reserve.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON FINANCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate Committee on Finance be authorized to meet during the session of the Senate on Tuesday, November 16, 1999, at 10 a.m., in 215 Dirksen, to conduct a hearing.

The PRESIDING OFFICER. Without obligation, it is so ordered.

ADDITIONAL STATEMENTS

THE CAREER OF MICHAEL J. PETRINA

• Mr. HATCH. Mr. President, occasionally in Washington, an individual crosses our paths whose talents go beyond legal and government relations skills or polished representation of political and policy issues, and extend to an elusive higher level. At this level, we think of him not as a creature of the policies he advocates but as a person—a man of integrity and decency. Mike Petrina is such a man. Generous and unfailingly courteous, Mike has represented the Cosmetic, Toiletry, and Fragrance Association with intelligence, savvy, and charm. In doing his job well, he also has achieved what is often very difficult in this town—an excellent reputation as a genuinely nice guy.

Before he joined CTFA, Mike worked as legislative counsel to the Pharmaceutical Research and Manufacturers Association, as an attorney both in private practice and in community legal services, and as a legislative assistant to the late Representative Silvio Conte. In each of these capacities, his watchword was integrity and his purpose was to achieve the goal without compromising either his own principles or the credibility of his employer.

It is clear that among the defining moments of Mike's life—those moments that signaled how successful he would be here in wonk universe, were his quiz show triumphs. If winning on Jeopardy doesn't tell us anything else about a person, it tells us that he will always be able to produce an obscure fact and that he can react instantaneously to a totally unexpected question or comment. Surely those two skills suited Mike superbly for his fruitful Washington career.

Mike has chosen to retire early in the year 2000, when he is young enough to enjoy his retirement and to have a long time to do it. I wish him well, and want him to know that many of us here will miss him. With Mike and CTFA president Ed Kavanaugh, the industry made a lasting mark on the Utah Children's Charities through contributions of products to our golf tournament each August. I have been grateful for the contribution and, more importantly, for the spirit of good will that always characterized my interactions with CTFA and with Mike.

Mike illustrated, through effective use of his talents, the sense of humor that always tided him over the tough moments, and his gentle approach to people, what the poet and artist J. Stone once said: ''the most visible creators I know of are those artists whose medium is life itself . . . They neither paint nor sculpt—their medium is being. Whatever their presence touches has increased life.''

I am sure I speak for all those who worked with Mike in thanking him for all he did here to make our work together so pleasant and productive. I wish Mike Petrina a long and enjoyable retirement, and urge him to remember always the words of Robert Browning: ''The best is yet to be, the last of life for which the first was made.''•

90TH ANNIVERSARY OF THE AMERICAN RED CROSS OF SOUTHEASTERN CONNECTICUT

• Mr. DODD. Mr. President, it is with great enthusiasm that I rise today to celebrate the 90th Anniversary of the American Red Cross of Southeastern Connecticut. Since 1909, victims of war, strife and natural disaster have been given the gift of hope and the means of

survival by the selfless men and women who make up the Red Cross' Southeastern Connecticut Chapter. Indeed, for nine decades, the Southeastern Connecticut Chapter has provided assistance to those in need in Connecticut, across the United States and around the world—truly exemplifying the ideals of the American Red Cross—offering aid and support during periods of acute emergency and prolonged rebuilding alike.

The Red Cross itself has a long and distinguished history in the United States. In 1881, the American Red Cross was founded by Clara Barton and dedicated to the basic principles of service to humanity, independence, voluntary service, unity and universality. President Taft described the American Red Cross as ''the only volunteer society now authorized by this government to render aid to its land and naval forces in times of war,'' for that was its original intent, to aid the casualties of war. As we all know, the organization's peace-time role grew rapidly, however, and at the turn of the century, new leadership brought new goals and expanded the services of the American Red Cross.

The growth of the American Red Cross was made possible by the success of regional chapters and the dedication of countless volunteers. The Red Cross was entirely staffed by volunteers until 1941, and today, volunteers still make up ninety-eight percent of all Red Cross personnel. When membership drives were initiated by the Southeastern Connecticut Chapter, residents of that area answered the call. Citizens from all walks of life—businesses, mills, farms, schools, churches and hospitals—donated their time, skill and money to the organization. Over the years, the Southeastern Chapter has been able to generate the ever-increasing support required to meet developing demands because of the sacrifice of their volunteers and the generosity of their neighbors.

Over the last 90 years, this generosity and self-sacrifice has produced a remarkable track record. Historically speaking, the Red Cross organization in Southeastern Connecticut was active even before its formal charter was granted on November 1, 1909. The founding members began organizing at the Park Congressional Church in Norwich, Connecticut in October, 1905. They played a role in the relief efforts following the eruption of Mount Vesuvius and in 1906 helped survivors of the San Francisco earthquake and fire. Back home in Connecticut, the chapter also moved rapidly to combat a growing tuberculosis epidemic in its early days.

As the world braced for war in August, 1914, the Chapter prepared for its own humanitarian campaign. The Chapter's members opened their hearts and homes to the work at hand. Preparations were carried out in homes, offices, social clubs, church societies and any other available space. The spirit of the Red Cross in Southeastern Connecticut was truly embraced by the community as a whole. The Honor Roll Committee, the Home Service Section, the Motor Corps and the Junior Red Cross were all formed in the endeavor to relieve those affected by war.

During the latter decades of the century, the Chapter, and the Red Cross in general, made great strides in the field of blood donation. Connecticut Chapters contributed to the Blood Services of the war in Vietnam by sponsoring ''Operation Helpmate'' in which each Chapter supplied a mobile blood unit in Mekong, Vietnam. Relentless in their selfless devotion to humanitarianism worldwide, Southeastern Connecticut Red Cross has provided a safety net for the 20th Century.

While most of us think of the Red Cross as an international force for good, the presence of the American Red Cross in Connecticut has been important, as well. When the deadliest hurricane to ever hit New England slammed into Eastern Connecticut on September 21, 1938, the Disaster and Civil Preparedness Committee of the Southeastern Chapter responded to the emergency situation immediately, helping countless lives. And the Chapter led the effort to rebuild once the storm had passed. Had it not been for the preparedness of the Chapter in disaster situations, the damage and loss of life sustained would have been far greater.

More recently, the state's organization has created what is now hailed as a model program for preventing the spread of HIV throughout the state. This program has become highly successful, and is partly the reason why cases of new infections have dropped significantly.

Just this year, the destruction brought by hurricane Floyd was mitigated by the Southeastern Red Cross. While parts of Connecticut were so badly soaked by floods that they were declared federal disaster areas, the Southeastern Connecticut American Red Cross was assisting local hospitals and rescuing those in need.

At the turn of the millennium, the American Red Cross faces new challenges. Cultural and national conflicts, natural disasters and acts of nature have caused unimaginable human suffering in recent memory. After each calamity, however, the Red Cross and its volunteers have been there to pick up the pieces. Volunteers from Connecticut have played an active role both around the world and at home over the last 90 years and I rest easier knowing they will continue to play a vital role well into the next century.

So, it is with great pride and gratitude, Mr. President, that I stand on the floor of the Senate today to recognize the accomplishments of the Southeastern Connecticut American Red Cross over these past 90 years. I know I speak for many Connecticut residents in expressing congratulations for achieving this milestone, and best wishes in coming years for continued service to those in need.●

IMAM VEHBI ISMAIL PROCLAMATION

● Mr. ABRAHAM. Mr. President, it gives me great pleasure to rise today and honor Imam Vehbi Ismail for his fifty years of dedicated service to the Islamic community.

The Imam has been an instrumental force in the Albanian American and Islamic communities in Michigan. Originally, from Albania he emigrated to the United States in 1949 after studying theology in Egypt. Through his spiritual leadership the Imam set himself on a path to improve the Albanian American community. One of his greatest accomplishments was the establishment of the Albanian Islamic Center where he served as the Senior Cleric.

What is truly remarkable about this extraordinary individual is his work in the areas of democratic and human rights. The Imam has been the driving force in the Michigan community, raising awareness for human rights for Albanians world wide.

The Imam has proudly served as one of the longest active Clerics in the country. His family and the Albanian American community look to him as the elder statesman and guiding spirit for their community.

Mr. President it is with sincere joy and appreciation that I honor the Imam Vehbi Ismail. He is truly an example of unselfish charity and an inspiration to many.●

JERRY DAVIS, JR., TRIBUTE

● Mr. CLELAND. Mr. President, I come before my colleagues today to pay tribute to a dear friend, Jerry Davis, Jr. Jerry and I first met in the Army when we were stationed in New Jersey together before we headed to Vietnam. Jerry is a man with an extraordinary story and I am proud to be among his circle of friends.

Jerry was born on January 2, 1925 in Terry, Louisiana—a humble beginning for a sharecropper's son destined for the cover of FORTUNE Magazine (October, 1975). Jerry was a man committed to a life of service and his family, his church, his community and his country. A generous, loving and forgiving spirit, a respect for order and tradition and a legendary helping hand were the hallmarks of his life.

After graduating first in his class from the Magnolia Training School, he cut his formal education short , despite receiving a scholarship from Southern University, by enlisting in the U.S. Army. Joining the all African-American 94th Engineer Construction Battalion at the end of World War II, he began his military career as an enlisted man in Paris. Seven years later he completed Officer Training School in Fort Benning, Georgia and as a new 2nd Lieutenant was company commander in the Korean War. In 1967, he returned to combat as one of two African-American battalion commanders in Vietnam. After 26 years of distinguished

service, Lieutenant Colonel Davis retired.

From there, Jerry went on to accomplish many great things. Among them were, being Chairman of the Board of M.U.S.C.L.E.—a non-profit organization providing low income housing in Southwest Washington—and serving as a trustee for the retirement fund of the Washington Suburban Sanitation Commission. In the early 1970's, Jerry founded Unified Services Inc., a successful building service management company and was Chairman of the Board and CEO of Unibar Maintenance in Ann Arbor, Michigan. Jerry was also a delegate to the 1980 White House Conference on Small Business.

While on a business trip to Portland, Oregon with a friend, he met Jean Cotton Simmons and swept her off her feet. They married and shortly after created a family whose dimensions extend miles beyond their shared hearth with a tradition of hospitality, humor and huge holiday celebrations.

Jerry fills his free time with the sounds of Duke Ellington, Frank Sinatra and Miles Davis, and when his wife isn't looking, it's long cigars and the Redskins. And I can't forget our shared love of Westerns, especially ''Gunfight at the OK Corral.'' Countless people have had life defining moments with this ordinary man who produced extraordinary results, leaving behind an enduring legacy of living life to its unreasonable fullest. As Jerry and his family battle against his cancer, I applaud the courage and determination he has shown throughout his life.

As George Bernard Shaw once said, ''The reasonable man adapts himself to the conditions that surround him. The unreasonable man adapts surrounding conditions to himself. Our progress depends on the unreasonable man.''●

TRIBUTE TO HENRY VOGT HEUSER, SR.

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a dear friend, a successful businessman, and community leader, the late Henry Heuser, Sr. I also would like to extend my condolences to his two sons, Henry, Jr. and Marshall.

Henry has made it easy for us to remember him—leaving behind an impressive list of accomplishments that most people only hope to achieve in their lifetime. Henry will be remembered for many different reasons, not least of which is his generosity to the Louisville community. Henry gave much of his time, energy and monetary resources to benefit others. Aware that he had resources which not everyone was privileged to have, he shared his wealth both of knowledge and of money with the city over his lifetime. Henry often gave to charity and community groups that needed support, including a recent $1 million donation to the Louisville Deaf Oral School for a much-needed expansion project. He made the donation in memory of his late wife, Edith, who volunteered for and supported the school for many years.

Henry also will be remembered as a dedicated civic leader for Louisville—Henry had a heart for the city of Louisville, and a vision for its bright future. Henry was a founder of Leadership Louisville, a group of community leaders that were committed to making a difference in the city. Henry also was very involved in the religious community of Louisville, and even led the effort to bring the Presbyterian Church's headquarters to the city several years ago. Another of the legacies Henry leaves behind is that of ''The Derby Clock,'' as it has come to be known. Henry was an integral part of the planning and design for the clock, and I know I will think of him when I see it repaired, reassembled, and prominently displayed in our city.

Henry also will be remembered for his success in business, with the Henry Vogt Machine Company and his more recent enterprises, Unistar and Equisource. Henry's sharp mind and innate common sense clearly served him in the business world and in the community.

I am certain that the legacy of excellence that Henry Heuser, Sr. has left will continue on, and will encourage and inspire others. Hopefully it will be a comfort to the family and friends he leaves behind to know that his efforts to better the community will be felt for years to come. On behalf of myself and my colleagues, I offer my deepest condolences to Henry's loved ones, and express my gratitude for all he contributed to Jefferson County, the State of Kentucky, and to our great nation.●

PFIZER'S 150TH ANNIVERSARY

● Mr. LIEBERMAN. Mr. President, I rise today to congratulate Pfizer, Inc. on its 150th anniversary. As one of the global leaders of the important pharmaceutical industry, Pfizer has helped to improve the health of men, women and children around the world for the last century and a half. The company employs 4,939 men and women in its Groton, CT research facility, which lies in my home state.

Pfizer is committed to helping people live better lives—not only by bringing best-in-class medicines to market, but also by working with patients and physicians to develop comprehensive disease management programs that educate people about ways to better control their illness, rather than letting their illness control them.

Pfizer's long history is full of adventure, daring risk-taking, and intrepid decision-making. Founded by German immigrant cousins Charles Pfizer and Charles Erhart in 1849, Pfizer has grown from a small chemical firm in Brooklyn, NY to a multinational corporation, which employs close to 50,000 people.

Pfizer has a long tradition of developing innovative drugs to combat a variety of illnesses. In 1944, Pfizer was the first company to successfully mass-produce penicillin, a breakthrough that led to the company's emergence as a global leader in its industry. Since then, Pfizer has marketed dozens of effective medicines designed to fight conditions like arthritis, diabetes, heart disease, and infections. Nearly all of the major medicines marketed by Pfizer are No. 1 or No. 2 in their categories

In addition, Pfizer provides a wide range of assistance to those in need. The desire to live a healthy life is universal. But for millions of people around the world, access to high quality health care remains out of reach. Pfizer is committed to bringing their medicines to those in need. Through Sharing the Care, a program started in 1993, Pfizer has filled more than 3.0 million prescriptions for its medicines—valued at over $170 million—for more than one million uninsured patients in the United States. The program was cited by American Benefactor, a leading philanthropy journal, in selecting Pfizer as one of America's 25 most generous companies for 1998.

As you can see, Pfizer has made innumerable contributions to our nation and our world, and its accomplishments should be applauded as it celebrates its 150th anniversary.●

SHARED APPRECIATION AGREEMENTS

● Mr. BURNS. Mr. President, shared appreciation agreements have the potential to cause hundreds of farm foreclosures across the nation, and especially in my home state of Montana. Ten years ago, a large number of farmers signed these agreements. At that time they were under the impression that they would be required to pay these back at the end of ten years, at a reasonable rate of redemption.

However, that has not proved to be the case. The appraisals being conducted by the Farm Service Agency are showing increased values of ridiculous proportions. By all standards, one would expect the value to have decreased. Farm prices are the lowest they have been in years, and there does not seem to be a quick recovery forthcoming. Farmers cannot possibly be expected to pay back a value twice the amount they originally wrote down. Especially in light of the current market situation, I believe something must be done about the way these appraisals are conducted.

USDA has proposed rules and regulations but farmers need help with these agreements now. This legislation mandates these important regulations. It will exclude capital investments from the increase in appreciation and allow farmers to take out a loan at the ''Homestead Rate'', which is the government's cost of borrowing.

Farmers should not be penalized for attempting to better their operations. Nor can they be expected to delay capital improvements so that they will

not be penalized. It will be necessary for most of these agricultural producers to take out an additional loan during these hard times. It is important that the interest rate on that loan will accommodate their needs. The governments current cost of borrowing equals about 6.25 percent, far less than the original 9 percent farmers and ranchers were paying.

I look forward to working with members in other states to alleviate the financial burdens imposed by shared appreciation agreements. I hope that we may move this through the legislative process quickly to provide help as soon as possible to our farmers.●

IN MEMORY OF JOHN A. SACCI

● Mr. TORRICELLI. Mr. President, I rise today to pay homage to one of my constituents, the late John A. Sacci, who was a resident in my home county of Bergen. John Sacci served with distinction as a history teacher in the Hoboken Public Schools until his untimely death in 1997. The good citizens of Hoboken will dedicate a playground in the historic Columbus Park in honor of his memory, and I join his family, friends and colleagues in paying tribute to a man who inspired so many young people.

John Sacci lived a short life, but it was not without ample achievements and success. Mr. Sacci helped to shape the minds of our children and did so with his unique brand of humor. His approach to teaching was filled with a refreshing attitude that won him the affection of countless students. Mr. President, above all, John Sacci was a committed and dedicated teacher and servant of the people.

Mr. Sacci lent his support to countless causes, including the implementation of Advanced Placement courses and the International Bacculauralate programs at Hoboken High School, creating scholarship opportunities for students, and initiating professional learning opportunities like the Academic Bowl and Mock Trial providing for Hoboken's students to be among the brightest in Hudson County. Additionally, John served as the Girl's Softball Team Coach and helped to build young women's self-esteem through leadership and team work.

When it came time to assist students with the college application process, John Sacci was the one hundreds of students turned to for assistance because they knew he cared. Indeed, John Sacci's efforts made it possible for hundreds of students to go on and become productive citizens. In fact, John Sacci helped and inspired a member of my own staff, George A. Ortiz, who serves as my press secretary. He was a vital asset to the success of Hoboken High School and his loss is profoundly felt. For all who ever crossed his path and benefitted from his intrinsic commitment to helping shape the future of America, we are all the better for it today.

Mr. President, I have stood on the floor of this great chamber time and again to urge the imperative need for meaningful gun control. On February 17, 1997 the tragedies that have struck in places like Littleton, Jonesboro and Columbine were all too familiar to the small community of Hoboken, as John Sacci's life was tragically cut short by gun violence. To all of my constituents in New Jersey who have died from gun violence, like John Sacci, I commit to fighting so that their memories and untimely deaths are not forgotten.

In conclusion, I want to express my personal condolences to John Sacci's family and friends. To his wife, Kathy, his children, Carla, Christi, Jenna and Elaina, though nothing I can say today will change the pain you feel, but take pride in your husband and father John Sacci. He was, indeed, a man of courage, inspiration and above all, he cared enough to want to make a difference.

Mr. President, I would like the record to reflect that today, Tuesday, November 23, 1999, family, friends and countless students gathered together in the City of Hoboken, in Hudson County in my great state of New Jersey to dedicate a playground in the living memory of John A. Sacci, an accomplished teacher.●

LA SALLE COLLEGE HIGH SCHOOL FATHER/SON BANQUET

● Mr. SANTORUM. Mr. President, I would like to call to your attention a special event which will be occurring in Wyndmoor, Pennsylvania on Thursday, November 18, 1999. La Salle College High School will be celebrating the 50th anniversary of their Father/Son Banquet, sponsored by the ''Men of La Salle,'' otherwise known as the Father's Club.

La Salle College High School is a private, independent Catholic college preparatory school for young men of varied backgrounds and abilities. La Salle is dedicated to providing a challenging and nurturing environment for learning, inspired by Saint John Baptist De La Salle, and seeks to empower each student to accept responsibility and achieve his fullest potential. La Salle is committed to Christian values, academic excellence, spiritual fulfillment, cultural enrichment, and physical development. The Lasallian experience prepares young men who are dedicated to leadership, achievement, and service to help build a society that is more human, more Christ-like, and more just.

The Father's Club has a long history of doing good for the La Salle College High School and its families. Much of the money raised by the Men of La Salle College High School and its families. Much of the money raised by the Men of La Salle, for example, goes to help students at La Salle who find themselves in financial difficulties as a result of the death of an employed parent. This scholarship fund makes it possible for students who go through a family tragedy to stay at La Salle, and helps to foster a family-like atmosphere. The Father's Club also contributes to the financial growth and stability of La Salle, and provides a wholesome social climate through its various events and activities.

Once again, I would like to congratulate La Salle College High School and the Men of La Salle for the 50th anniversary of their Father/Son banquet, and thank them for the great work which they are doing. They are a tribute to Pennsylvania and should be recognized as a model organization to be emulated.●

DAVID AND ANN CANNON

● Mr. DODD. Mr. President, I raise today to honor the enduring union of David and Ann Cannon and the legacy of accomplishment that their partnership has produced. On December 19, 1999, they will retire together, 35 years to the day after David was ordained as a priest and the two began their work at the St. James Episcopal Church in the Village of Poquetanuck, Connecticut, located in the greater Norwich area of my home state.

For these past three and a half decades, David and Ann have been pillars of the Norwich community. Through their unflagging commitment to improving the lot of those in need, they have touched the lives of countless neighbors and set an impressive example for the rest of us to follow. Specifically, their work on behalf of the homeless of Martin House and Thames River Family Program has given dignity and hope to those who previously had little of either.

Individually, each has many accomplishments for which to be proud. David has been a faithful pastor and a caring leader for his parish. He has dedicated himself to increasing access to quality higher education and ensuring compassionate care for the ill and infirm. To her great credit, Ann has worked tirelessly to shape a more responsive local government and to conserve the history of the community for generations to come.

But the sum of this pair's worth is well beyond the measure of its distinguished parts. Perhaps it is the love and good humor these two share with themselves and others, their common zeal for hard work, and their joint commitment to excellence that is most memorable about them. Perhaps, as well, it is their unbending faith and their untempered compassion for their neighbors, and their talent for simply caring about others that has magnified their impact. All these traits have defined David and Ann for the many years I have known them and undoubtedly long before.

While I merely scratch the surface of their many virtues and accomplishments here today, I would be remiss not to mention David and Ann's three most remarkable accomplishments—David, Andrew and Ruth, their three wonderful and loving children.

Through 42 years of marriage, 35 years of selfless dedication to their parish and community, and 3 wonderful children, David and Ann Cannon have remained the central characters in a wonderful life story. I know I speak for countless others in the Norwich area in wishing that the next chapter in their remarkable life story be one of many rewarding years filled with love and happiness.●

DUTCH AMERICAN HERITAGE DAY

● Mr. KYL. Mr. President, on November 17, 1776 a small American warship, the *Andrew Doria*, sailed into the harbor of the island of Saint Eustatius in the West Indies. Only 4 months before, the United States had declared its independence from Great Britain. The American crew was delighted when the Governor of the island, Johannes de Graaf, ordered that his fort's cannons be fired in a friendly salute. The first ever given by a foreign power to the flag of the United States, it was a risky and courageous act. The British seized the island a few years later. De Graff's welcoming salute was a sign of respect, and today it continues to symbolize the deep ties of friendship that exist between the United States and the Netherlands.

After more than 200 years, the bonds between the United States and the Netherlands remain strong. Our diplomatic ties, in fact, constitute one of the longest unbroken diplomatic relationships with any foreign country.

Fifty years ago, during the second world war, American and Dutch men and women fought side by side to defend the cause of freedom and democracy. As NATO allies, we have continued to stand together to keep the transatlantic partnership strong and to maintain the peace and security of Europe. In the Persian Gulf we joined as coalition partners to repel aggression and to uphold the rule of law.

While the ties between the United States and the Netherlands have been tested by time and by the crucible of armed conflict, Dutch American Heritage is even older than our official relationship. It dates back to the early seventeenth century, when the Dutch West India Company founded New Netherland and its main settlements, New Amsterdam and Fort Orange—today known as New York City and Albany.

From the earliest days of our Republic, men and women of Dutch ancestry have made important contributions to American history and culture. The influence of our Dutch ancestors can still be seen not only in New York's Hudson River Valley but also in communities like Holland, Michigan and Pella, Iowa where many people trace their roots to settlers from the Netherlands.

Generations of Dutch immigrants have enriched the United States with the unique customs and traditions of their ancestral homeland—a country that has given the world great artists and celebrated philosophers.

On this occasion, we also remember many celebrated American leaders of Dutch descent. Three presidents, Martin Van Buren, Theodore Roosevelt and Franklin D. Roosevelt, came from Dutch stock.

Our Dutch heritage is seen not only in our people but also in our experience as a Nation. Our traditions of religious freedom and tolerance, for example, have spiritual and legal roots among such early settlers as the English Pilgrims and the French Huguenots, who first found refuge from persecution in Holland. The Dutch Republic was among those systems of government that inspired our Nation's Founders as they shaped our Constitution.

In celebration of the long-standing friendship that exists between the United States and the Netherlands, and in recognition of the many contributions that Dutch Americans have made to our country, we observe Dutch American Heritage Day on November 16.

I salute the over eight million Dutch Americans and the sixteen million people of the Netherlands in the celebration of this joyous occasion.●

USE OF SECRET EVIDENCE IN DEPORTATION PROCEEDINGS

● Mr. MOYNIHAN. Mr. President, on November 6, Nat Hentoff devoted his ever insightful column to the Kafka-like use of secret evidence by our Federal government in deportation proceedings. Once again, Mr. Hentoff has highlighted yet another distressing aspect of the 1996 Anti-Terrorism and Effective Death Penalty Act. I ask that Mr. Hentoff's column be printed in the RECORD.

The column follows.

[From the Washington Post, Nov. 6, 1999]

PROSECUTION IN DARKNESS

(By Nat Hentoff)

Around the country, 24 immigrants, most of them Muslim or of Arab descent, are being detained—that is, imprisoned—by the Immigration and Naturalization Service, which intends to deport them.

None of them, nor any of their lawyers, has been allowed to see the evidence against them or to confront their accusers. This denial of fundamental due process is justified on the grounds of national security.

In 1996, the president signed the Anti-Terrorism and Effective Death Penalty Act, which authorized secret evidence. A federal district judge in Newark, N.J., William Walls, has now described this as ''government processes initiated and prosecuted in darkness.'' (The use of secret evidence, however, goes back to the 1950s).

Although many active lawsuits, in various stages, are attacking this use of secret evidence, Judge Walls is the first jurist to flatly declare the use of such evidence unconstitutional.

His decision was in the case of Hany Mahmoud Kiareldeen, a Palestinian who has been in this country for nine years, managed an electronics store in New Jersey and is married to an American citizen.

First arrested for having an expired student visa, he later was accused of meeting in his New Jersey home, a week before the 1993 World Trade Center bombing, with one of the men convicted in that attack. He also was accused of threatening to kill Attorney General Janet Reno.

The source of this classified evidence is the FBI's Joint Terrorism Task Force. But, as Judge Walls has noted, the INS failed to produce any witnesses—either from the FBI or from the INS—or ''original source material'' in support of these charges. Therefore no witnesses could be cross-examined at the hearings.

At the hearings, Kiareldeen produced witnesses and other evidence that he was not living in the town where he is supposed to have met with bombing conspirators. And an expert witness, Dr. Laurie Myleroie, appeared for him. She is described by James Fox, former head of the FBI's New York office, as ''one of the world-class experts regarding Islam and the World Trade Center bombing.'' She testified that no evidence showed that the accused had any connection with that bombing.

The government's evidence, said the judge, failed ''to satisfy the constitutional standard of fundamental fairness.'' The INS—part of the Justice Department—denied Kiareldeen's ''due process right to confront his accusers . . . even one person during his extended tour through the INS's administrative procedures.''

These due process protections, declared the judge, ''must be extended to all persons within the United States, citizens and resident aliens alike. . . . Aliens, once legally admitted into the United States are entitled to the shelter of the Constitution.'' The judge went even farther. Even if the government's reliance on secret evidence has been provably based on a claim of national security, Judge Walls—quoting from a District of Columbia Court of Appeals decision, *Rafeedie* v. *INS*—asked ''whether that government interest is so all-encompassing that it requires that the petitioner be denied virtually every fundamental feature of due process.''

In *Rafeedie*, Judge David Ginsburg noted in 1989 that the permanent resident alien in That case, in this country for 14 years, was ''like Joseph K. in Kafka's 'The Trial' in that he could only prevail if he ware able to rebut evidence that he was not permitted to see.''

Kiareldeen is now free after 19 months, but Judge Walls's decision that secret evidence is unconstitutional applied only to the state of New Jersey. The INS did not pursue its appeal because it wants to avoid a Supreme Court decision. The INS continues to insist it will keep on using secret evidence.

One of the victims of these prosecutions in darkness still in prison is Nasser Ahmed, who has been in INS detention for 3½ years.

Congress has the power to bring in the sunlight by passing the Secret Evidence Repeal Act of 1999 (H.R. 2121)—introduced in June by Rep. David Bonior (D–Mich.). It would ''abolish the use of secret evidence in American courts and reaffirm the Fifth Amendment's guarantee that no person shall be deprived of liberty without due process.''

Will a bipartisan congress vote in favor of the Constitution? And then, will the president allow the removal of the secret evidence provisions of his cherished 1996 Anti-Terrorism Act?●

HAPPY BIRTHDAY PERRY, GEORGIA

● Mr. CLELAND. Mr. President, on the eve of its one hundred and seventy-fifth birthday, I rise today to recognize a most charming and prosperous town, Perry, GA. When the first settlers came to the fertile plains of central Georgia, they found a wealth of natural

resources that promised prosperity. The land proved not only beautiful, but also perfectly suited for agriculture. The town's initial successes attracted entrepreneurial citizens who contributed greatly to Perry's strong industrial and agricultural presence in Georgia which continues to grow to this day.

Perry is the seat of Houston County, and is blessed with a rich abundance of natural, historic and cultural diversity. Formerly known as Wattsville, Perry became the first official town in the county on November 25, 1824. Perry is named after Commodore Oliver Perry, who became famous for a battle on Lake Erie during the war of 1812. During the battle of September 10, 1813, Perry defeated and captured a flotilla of six large British frigates with an improvised fleet of nine American vessels and in so doing neutralized the British naval presence on Lake Erie.

For as long as anyone can remember, Perry has been a favorite place for tourists to stop. Known as the ''Crossroads of Georgia,'' Perry is located in the geographic center of the state where U.S. Highways 341 and 41 and the Golden Isles Parkway intersect with Interstate 75. With an ideal location along I–75, Perry has long enjoyed the distinction as Georgia's halfway point to Florida. As a result, snowbirds and vacationers of every type have recognized Perry as a pleasant place to stop and rest, grab a bite to eat at one of Perry's many restaurants, including one of my favorites, The New Perry Hotel, or simply to enjoy the peacefulness of the small town. Combined with the graciousness with which they are received by Perryans, many have found it difficult to leave!

For festival-goers, Perry's warm climate and 628-acre events complex provide ample opportunity for fun and entertainment. Perry is home to Georgia's National Fair, a much-anticipated, 10-day extravaganza held each October. Activities at the fair are reminiscent of county fairs of old, revolving around livestock and horse shows, FAA and FHA events, home and fine arts displays, as well as the ever-popular baking and quilting competitions. This year marked the 10-year anniversary of the fair. The 628-acre complex is the largest of its kind, and the events hosted at the Georgia National Fairgrounds and Agricenter have an estimated economic impact of $30 million annually.

For about two weeks starting in mid-March, the Peach Blossom Trail on U.S. 341 north of Perry is lined with pink and white blossoms. From mid-May through mid-August, an abundance of fresh peaches can be found for sale at roadside stands. Dogwoods and azaleas bloom profusely during the spring and camellias brighten the landscape during the winter. The dogwood has been adopted as the city's official tree. Perry's downtown has been maintained as a colonial-style village with specialty shops and restful atmosphere.

More than the festivals, beauty, history or industry, it is the wonderful people of Perry who make it such a unique place. Perry manages to maintain a less hectic pace and small town friendliness that has become a rarity in today's hustle-bustle society. There is an extremely strong sense of community in Perry as is evident in the strong church attendance, school participation, civic activism and neighborhood involvement among Perry's citizens. Additionally, Perry can be claimed as home by such noted national leaders as General Courtney Hodges of World War II fame, former U.S. Senator Sam Nunn, and the late former Congressman Richard Ray.

Mr. President, I warmly request that you and my colleagues join me in paying tribute to a jewel of a town, Perry, GA.●

JOHN GIOVANNINI

● Mr. SANTORUM. Mr. President, I rise today to recognize a genuine hero, who paid the ultimate price so that a loved one might live.

John Edward Giovannini, born in 1958, was an employee of US Airways and a member of the Pennsylvania Air National Guard, stationed in Harrisburg, PA. He served in the Marines from 1976 to 1980, and joined the Air National Guard in 1985.

On September 13, 1999, while vacationing with his girlfriend and her family in Ocean City, Maryland, John was faced with a fateful decision. While enjoying a relaxing day on the beach, the calm was suddenly shattered by desperate cries from Kim, the 21-year-old daughter of John's girlfriend. Kim was swimming in the ocean when a riptide threatened to carry her out to sea. Without concern for his own safety, John immediately swam out to reach Kim before the current could carry her away. Being an exceptionally strong swimmer, John was able to reach Kim despite the riptide, and began towing her toward the beach. Before reaching shore, John became overwhelmed with exhaustion from fighting the strong current. He continued to struggle toward shore, and when unable to swim any further, John fought with all his might to keep Kim above water as he cried out for help. Kim's grandmother, Deanna, swam out to the pair and successfully helped Kim back to shore. Meanwhile John's friend, Ron, came to his aid and pulled John the remaining distance to the beach. By the time John reached shore, he was completely incapacitated, having expended all of his energy in his effort to save Kim. The lifeguard and medical technicians were unable to revive John, and he died while being transported to the hospital. If not for John's quick actions and refusal to put his own life before Kim's, she would surely have been swept away.

Words can not begin to adequately describe the ultimate sacrifice John made on that fateful September day. His selfless courage is rarely demonstrated today apart from storybooks and movies. John Giovannini is truly an American hero, and as I extend my heartfelt condolences to John's loved ones for their tragic loss, I would also like to express my sincere admiration for the courage which John displayed throughout this tragic event.●

RECOGNITION OF CAPTAIN JAMES L. CARDOSO

● Mr. TORRICELLI. Mr. President, I rise today in recognition of Captain James L. Cardoso, a native of Cherry Hill, New Jersey, as he receives the Silver Star for gallantry from the United States Air Force. Captain Cardoso's daring rescue of a downed F–117 ''Stealth Fighter'' pilot makes him more than worthy of this prestigious honor. It is a pleasure for me to be able to honor his accomplishments.

On March 27, Captain Cardoso led his helicopter unit through Serbian air defenses within 25 miles of Belgrade. His extraordinary effort is even more remarkable considering the low visibility and the minimal air support his unit received in the rescue. He fearlessly led his formation, at great personal risk to himself and his crew, in penetrating an extremely formidable Serbian air defense system which knew of the rescue. In the process, Captain Cardoso successfully avoided Serbian ground forces located a mere 10 miles away.

Despite these difficulties, Captain Cardoso's unit was able to rescue the downed pilot within 45 seconds of landing. He narrowly escaped encroaching Serbian forces.

Having learned of Captain Cardoso's heroic leadership, I am pleased to recognize his efforts. Captain Cardoso's actions saved an American pilot from enemy hands at a critical time in the Kosovo campaign. By his gallantry and sense of duty, Captain Cardoso has proven a great credit to himself, the State of New Jersey and to the country. I wish him the best as he receives this tremendous honor.●

TRIBUTE TO ROBERT GIBSON

● Mr. JEFFORDS. Mr. President, today I rise to pay tribute to an extraordinary Vermonter, a gifted parliamentarian, and a true friend, Robert Gibson. Bob Gibson served the Vermont Legislature for over 35 years, first as Assistant Secretary of the Senate, and then as Secretary of the Senate. In these positions, he provided invaluable advice and counsel to every Senator who has served Vermont, from 1963, until his death in October.

Bob Gibson was born in Brattleboro in 1931, into one of Vermont's most distinguished families, a family dedicated to serving the public good. Bob's grandfather, Ernest Gibson, was president of the state Senate in 1908, a U.S. Congressman and a U.S. Senator. His father, Ernest Gibson, Jr., was an appointed U.S. Senator, Governor of

Vermont, a U.S. District Court judge, a decorated war hero and a close friend of my father. And both of Bob's brothers are exceptional citizens and public servants. His brother, Ernest III, is a former Vermont Supreme Court Justice and his other brother, David, is a former state's attorney for Windham County.

Both Bob Gibson and his father helped me immeasurably in my early years as a lawyer and a legislator. I clerked for Bob's father after law school, and was impressed by his vast knowledge of and respect for our laws, and his dedication to making Vermont a better place. And when I was elected to my first public office in 1967, as a Senator from Rutland County, it was Bob who steered me through the legislative process and set a standard of bipartisanship that has guided me throughout my career.

With a rare sense of fairness and a vast knowledge of the Vermont Legislature, Bob extended the same helping hand to every Senator that served in the Chamber during his tenure. Current Vermont State Senator from Caledonia County, Robert Ide, recently stated, ''Bob Gibson's reputation for fairness and honesty was above reproach from any member of the Senate. His guidance and respect from the leadership of both parties was unparalleled in the Vermont statehouse. He was a true friend and mentor for everyone who served in his classroom, and he will be sorely missed.''

Bob Gibson was a positive force in the Senate, who kept lawmakers moving forward in an orderly fashion. He was a positive force in his native Brattleboro, serving the community in a variety of ways before moving to Montpelier and becoming Assistant Secretary. He was a positive force in his family, dedicated to his wife, daughters, parents and brothers. And he was a positive force to all those who had the privilege of calling him a friend.

I pay tribute today to a man who paid tribute every day, to the values that Vermont holds dear—hard work, honesty and fairness. We have lost a Vermont institution, but Bob Gibson's legacy lives on in the laws he helped to enact and the lives that he touched.●

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 105–277, announces the appointment of Deborah C. Ball, of Georgia, to serve as a member of the Parents Advisory Council on Youth Drug Abuse for a 3-year term.

ORDERS FOR WEDNESDAY, NOVEMBER 17, 1999

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, November 17. I further ask unanimous consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume debate on the pending Wellstone amendment to S. 625, the bankruptcy reform bill, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I further ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. For the information of all Senators, the Senate will begin the final hour of debate on the Wellstone amendment at 9:30 a.m. on Wednesday. By previous consent, the Senate will proceed to a vote on the amendment following the use or yielding back of all the time. A vote on the Moynihan amendment, No. 2663, has been ordered to occur immediately following the vote on the Wellstone amendment.

Therefore, Senators may expect two back-to-back votes at approximately 10:30 a.m. tomorrow. If my plans work out, I prefer to have a third vote immediately afterwards on an amendment on which we are working to try to get consent. Then, in addition, other votes may be anticipated during tomorrow's session in an effort to complete the first session of the 106th Congress.

Therefore, Senators should adjust their schedules for the possibility of votes throughout the day and also into the evening on Wednesday. The leader appreciates the patience and cooperation of all of our colleagues as we attempt to complete the appropriations process.

Mr. REID. Mr. President, I wish to renew what I said earlier today. We have taken this bankruptcy bill a long way. When the bill started, we had 320 amendments that had been filed. We are down now to a handful of amendments, literally—12 to 15 amendments.

I suggest to the majority, after we complete our votes in the morning, we should go immediately to offering some of these amendments. I think, without a lot of work tomorrow, we can complete this bill. There is no reason at this stage to even consider invoking cloture; we are so close to being able to complete this bill. I can't speak for the entire minority, but if a cloture motion were filed at this late day, I am confident it would not be passed.

I think we should do everything within our power to complete this bill before we adjourn.

Mr. GRASSLEY. Mr. President, I don't take exception to anything the Senator from Nevada stated. I simply add, we have been on this very important bankruptcy reform legislation over a week and we have gotten to where we are on this legislation only because we have had an extreme amount of bipartisan cooperation, starting with the introduction of the bill by Senator TORRICELLI and myself, getting it out of the Judiciary Committee in April by a vote of 14–4, awaiting our place in line to come up on the floor of the Senate, and having had considerable success eliminating a lot of amendments and hoping to get it to conference before we adjourn for the first session of the 106th Congress.

We have had that bipartisan cooperation. I expect to continue to work with the Senator from Nevada; the Senator from Vermont, Mr. LEAHY, the ranking member of the Judiciary Committee; and Senator TORRICELLI, my partner on the subcommittee, to bring this bill to finality.

Mr. REID. Mr. President, I agree there has been bipartisan participation to this point. However, the majority of the time that has been spent on this bill has been in quorum calls and other matters. Rather than being involved in quorum calls, we should proceed on this legislation.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:15 p.m., adjourned until Wednesday, November 17, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 16, 1999:

ENVIRONMENTAL PROTECTION AGENCY

W. MICHAEL MCCABE, OF PENNSYLVANIA, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE FREDERIC JAMES HANSEN, RESIGNED.

RAILROAD RETIREMENT BOARD

JEROME F. KEVER, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM EXPIRING AUGUST 28, 2003. (REAPPOINTMENT)

VIRGIL M. SPEAKMAN, JR., OF OHIO, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM EXPIRING AUGUST 28, 2004. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

JANIE L. JEFFERS, OF MARYLAND, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS, VICE JASPER R. CLAY, JR., TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 624 AND 628:

To be colonel

JOSEPH G. BAILLARGEON, JR., 0000
DAVID R. BROWN, 0000
KEVIN M. GRADY, 0000
MICHAEL C. HART, 0000
MICHAEL S. HILL, 0000
RICKY B. KELLY, 0000
STEPHEN R. SCHWALBE, 0000

To be lieutenant colonel

JACK A. SNAPP, 0000

To be major

PAUL N. BARKER, 0000
BRYAN C. BARTLETT, 0000
PATRICIA S. PARRIS, 0000

DAVID L. PHILLIPS, JR., 0000

IN THE ARMY

THE FOLLOWING NAMES ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

RICHARD T. BRITTINGHAM, 0000
WILLIAM D. STEWART, JR., 0000

IN THE MARINE CORPS

THE FOLLOWING NAMES LIMITED DUTY OFFICER TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JOSEPH B. DAVIS, JR., 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

TERRY C. PIERCE, 0000
FRANK G. RINER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 624 AND 628:

To be lieutenant commander

BRAD HARRIS DOUGLAS, 0000
PAUL ALAN HERBERT, 0000
GREGORY S. KIRKWOOD, 0000
STEPHEN F. O'BRYAN, JR., 0000
GREGORY J. SENGSTOCK, 0000
MARC A. STERN, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

STEPHEN C. ALSOBROOK, 0000
MARY ELIZABETH ANCKER, 0000
EDWIN I. ANDERSON, 0000
WARNER J. ANDERSON, 0000
RICHARD ALBERT ARMSTRONG, 0000
JESSE BAILEY, 0000
JAMES MICHAEL BAKER, 0000
RONALD EUGENE BANKS, 0000
KENNETH EUGENE BARTELS, 0000
ALVIN LEON BAUMWART, 0000
DONALD WILLIAM BEGEZDA, 0000
DONALD R. BIRMINGHAM, 0000
ALJERNON J. BOLDEN, 0000
MARLIN D. BRENDSEL, 0000
JESSE ABRAHAM BREWER III, 0000
KENNETH E. BROOKMAN, 0000
ROBERT E. BROUGHTON, JR., 0000
EDITH MARY BUDIK, 0000
WALTER N. BURNETTE III, 0000
CANDACE MARIE BURNS, 0000
MATTIE LEE CALDWELL, 0000
MICHAEL DAVID CARETHERS, 0000
KENNETH RAY CARLETON, 0000
KATHLEEN SUE CARLSON, 0000
ELROY CARSON, 0000
RICHARD MYRON CARTER, 0000
MARGARET LESLIE CARVETH, 0000
CORNELIUS F. CATHCART, 0000
PATRICK F. CAULFIELD, 0000
WILLIAM M. CHAMBERLAIN, 0000
AFTAB A. CHAUDRY, 0000
DOMINIC KUI K. CHEUNG, 0000
JAI JONG CHO, 0000
MARTIN J. CHRISTENSEN, 0000
MATILDE M. CHUA, 0000
TERRENCE T. CLARK, 0000
JEFFREY PAUL CLEMENTE, 0000
ALKA V. COHEN, 0000
RONALD EDWARD COLEMAN, 0000
JOSE L. COLLADOMARCIAL, 0000
DEBRA ANN COOK, 0000
ESTELLE COOKESAMPSON, 0000
BRIAN WILLIAM COOPER, 0000
WILLIAM COX, 0000
HARROLD LYNN CRANFORD, 0000
SAMUEL A. CROW, 0000
DAVID MELVIN CUMMINGS, 0000
EDWARD O. CYR, 0000
RICHARD L. DALES, 0000
ANITA K. DAS, 0000
JOSE R. DAVILAORAMA, 0000
RICHARD LEE DAVIS, 0000
WILLIAM ROSS DAVIS, 0000
MOSES DEESE, 0000
DANIEL JOSEPH DUNN, 0000
JOHN ALEXANDER DWYER, 0000
FRANK M. ELLERO, 0000
DAVID F. EVERETT, 0000
WALTER G. FAHR, 0000
JACK FOWLER FENNEL, 0000
ANTHONY JOHN FERRETTI, 0000
ROBERT ALLEN FRAMPTON, 0000
CORNELIUS E. FREEMAN, 0000
MICHAEL E. FREVILLE, 0000
BRUCE DAVID FRIED, 0000
ROBERT EDWARD GARDNER, 0000
DANIEL WAYNE GARLAND, 0000
PAUL EDWARD GAUSE, 0000
JESSE OTTO GIDDENS, JR., 0000
JOHN VERNON GLADDEN, 0000
ELLIOTT GOYTIA, 0000
RICHARD V. GRAHAM, 0000
GEORGE PATRICK GREEN, 0000
RONALD GRIMES, 0000
EDWARD ALLEN HADAWAY, 0000
J. M. HAMILTON, 0000
MARY M. HAND, 0000
CONSTANCE JEAN HARDY, 0000
JANET MARY HARRINGTON, 0000
KARL MATTHEW HARTMANN, 0000
PATRICIA HARVARD, 0000
DANIEL ALAN HARVEY, 0000
DAVID M. HAYES, 0000
MARY ANN THERESA HAYUNGA, 0000
JAMES DILLER HELMAN, 0000
SARAH KATHRYN HELMS, 0000
ANDRE FRITZ HENRY, 0000
JOHN ROBERT HERRIN, 0000
DONALD EARL HICKS, 0000
MANUEL HIGER, 0000
AUDREY LORAINE HINDS, 0000
MARK ALAN HOFFMAN, 0000
DONNIE JOE HOLDEN, 0000
ROBERT GEORGE C. HOLMES, 0000
CLYDE PHILIP HOUSTON, 0000
JAMES CURTIS HOVE, 0000
CHERYL B. HOWARD, 0000
GERTA ANNE HOWELL, 0000
VIRGINIA W. JENKINS, 0000
EUNICE GERTRUDE JOHN, 0000
MARGARET CHRISTIAN JOHNSON, 0000
RICHARD LOUIS JOHNSON, 0000
ROBERT EDMUND JOHNSTONE, 0000
ROBERT CLYDE JONES, 0000
LYNNETTE DORLENE KENNISON, 0000
DAVID E. KOSIOREK, 0000
KARL JOSEPH KREDER, JR., 0000
NANCY ANN KUHL, 0000
BENJAMIN J. KULPER, 0000
JOHN J. LAMMIE, 0000
REGINALD J. LANKFORD, 0000
FRANKLIN Y. LAU, 0000
RONALD A. LEPIANKA, 0000
PATRICIA ANN LOCKHART, 0000
ROY EDWARD MADAY, 0000
WALTER JOSEPH MAGUIRE, 0000
DANNEN D. MANNSCHRECK, 0000
ROBERT ALLEN MASON, 0000
LARRY JOHN MATTHEWS, 0000
JUDITH MC LANE MAY, 0000
RUSSELL PAUL MAYER, 0000
CLAUDIA MC ALLASTER, 0000
FRED T. MC DONALD, 0000
THOMAS W. MC DONALD, 0000
GILBERT W. MC INTOSH, JR., 0000
JAMES W. MENTZER, JR., 0000
MARGARET ANN MILLER, 0000
STEPHEN WILLIAM MITCHELL, 0000
ARLENE JACKSON MONTGOMERY, 0000
ROBERT G. MONTGOMERY, 0000
EARL W. MORGAN, 0000
ELIZABETH S. MORRIS, 0000
MICHAEL EUGENE MULLIGAN, 0000
BARBARA JEAN MURPHY, 0000
FERENC NAGY, 0000
KENT ALAN NICKELL, 0000
PATRICIA W. NISHIMOTO, 0000
HARRY WILLIAM ORF, 0000
JOHN CARL OTTENBACHER, 0000
JEFFREY J. PARASZCZUK, 0000
RAJNIKANT C. PATEL, 0000
WILLIAM P. PATTERSON, 0000
MICHAEL EDWARD PAULSEN, 0000
NANCY REED PICKETT, 0000
ROSALIND KAY PIERCE, 0000
LAURENCE ROGER PLUMB, 0000
DANNY RAY RAGLAND, 0000
JAMES DELMAR REED, 0000
DENNIS EUGENE REILLY, 0000
DANA FREDERICK REYNARD, 0000
LESLIE E. RICE, 0000
RANDY CONRAD RICHTER, 0000
ENRIQUE A. RIGGS, 0000
JAMES C. ROBERTSON, JR., 0000
RICKY JOE RODGERS, 0000
RAUL RODRIGUEZ, 0000
DONALD KARL ROKOSCH, 0000
HECTOR ROSADO, 0000
PETER JAMES ROSS, 0000
JOHN DAVID ROWEKAMP, 0000
MICHAEL JOSEPH ROY, 0000
HARRY GRAHAM RUBIN, 0000
ROBERT DAVID RUSSELL, 0000
ROBERT W. SAUM, JR., 0000
ARNOLD D. SCHELLER, 0000
JON EDWARD SCHIFF, 0000
JOHN P. SCHIRMER, 0000
ALLEN CLARK SCHMIDT, 0000
STEFAN SHERMAN, 0000
DENNIS P. SHINGLETON, 0000
STEPHEN K. SIEGRIST, 0000
HAROLD SILMAN, 0000
LEWIS D. SKULL, 0000
LANI W. SMITH, 0000
JAMES W. SNYDER, 0000
SHARON ANN R. STANLEY, 0000
VIRGINIA S. STAPLEY, 0000
PAMELA JEAN STAVES, 0000
STEVEN JAMES STEED, 0000
THOMAS MICHAEL STEIN, 0000
HERBERT A. STONE, 0000
LAURA B. STRANGE, 0000
BARRY D. STRINGFIELD, 0000
DAVIS M. STROOP, 0000
COLLEEN P. SULLIVAN, 0000
TERRY LYNN SWISHER, 0000
JAVIER G. TABOADA, 0000
JANET L. THOMPSON, 0000
JIMMY DALE THURMAN, 0000
SHAW P. WAN, 0000
DONALD G. WARD, JR., 0000
MARJORY K. WATERMAN, 0000
WILLIAM BRUCE WATSON, 0000
SHARON SUE WEESE, 0000
GORDON PAUL WESLEY, 0000
MARGARET C. WILMOTH, 0000
MICHAEL A. YOUNG, 0000
RICHARD B. YOUNG, 0000
HENRY E. ZERANSKI, JR., 0000